

## ***JUNE 20, 2006 AGENDA REPORTS***

### **Agenda Item No. 8a.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0636

TO: Mayor and City Council Members

SUBJECT: Petition to construct a Storm Water Drain in Clifton Cove Addition (south of 63rd St. South, west of Clifton) (District III)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new Petition.

Background: On November 15, 2005, the City Council approved a Petition to construct a storm water drain in Clifton Cove Addition. An attempt to award a construction contract within the budget set by the Petition was not successful. The developer has submitted a new Petition with an increased budget. The signature on the new Petition represents 100% of the improvement district.

Analysis: The project will serve a new residential development located south of 63rd St. South, west of Clifton.

Financial Considerations: The existing Petition totals \$502,000 with the total assessed to the improvement district. The new Petition totals \$659,000 with the total assessed to the improvement district.

Goal Impact: This project will address the Efficient Infrastructure goal by providing drainage improvements necessary for a new residential development. It will also address the Economic Vitality and Affordable Living goal by facilitating new residential development that is vital to Wichita's continued economic growth.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendations/Actions: It is recommended that the City Council approve the new Petition, adopt the Resolution and authorize the necessary signatures.

## **Agenda Item No. 8b.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0637

TO: Mayor and City Council Members

SUBJECT: Petition for Drainage Improvements in Fontana and Fontana 2nd Additions (north of 29th St. North, east of 119th St. West) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Petition.

Background: The Petition has been signed by one owner representing 100% of the improvement district.

Analysis: The project will install stone riprap on the side slopes of four detention ponds in a new residential development located north of 29th St. North, east of 119th St. West.

Financial Considerations: The Petition totals \$110,000. The funding source is special assessments.

Goal Impact: This project will address the Efficient Infrastructure goal by providing drainage improvements necessary for a new residential development. It will also address the Economic Vitality and Affordable Living goal by facilitating new residential development that is vital to Wichita's continued economic growth.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the Petition, adopt the Resolution and authorize the necessary signatures.

**Agenda Item No. 12a.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0638

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for 13th Street North from 135th to 119th Street West (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: On May 4, 2004, the City entered into an Agreement with Schwab-Eaton for designing 13th Street North from 135th to 119th Street West for a fee of \$117,800. On September 13, 2005, the City Council approved Supplemental Agreement No. 1, which requested Schwab-Eaton for a separate set of plans detailing both relocation of existing and construction of new water lines in the area of 135th Street West and 13th. The fee was \$9,500.

Analysis: Schwab-Eaton was asked to make revisions to their project plans regarding the conversion of an existing 12" DICL line along 13th Street and along 135th Street. The revisions were made necessary due to revision of project plans for the proposed Main 4 project, which is soon to be let for bid. Schwab-Eaton was instructed asked to modify their plans to reflect the changes necessary to be able to tie-in with the elevations at the east end of the project. The proposed Supplemental Agreement provides for the additional design services.

Financial Considerations: Payment to Schwab-Eaton will be on a lump sum basis of \$2,750, and will be paid by Operating Revenues.

Goal Impact: This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed to provide a viable transportation system for the community. It also addresses the Economic and Affordable Living goal by providing a public improvement critical for the private sector's development of the surrounding area.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

SUPPLEMENTAL AGREEMENT NO. 2 TO THE AGREEMENT FOR PROFESSIONAL SERVICES DATED MAY 4, 2004, BETWEEN THE CITY OF WICHITA, KANSAS, PARTY OF THE FIRST PART, HEREINAFTER CALLED THE "CITY, " AND SCHWAB-EATON, P.A PARTY OF THE SECOND PART, HEREINAFTER CALLED THE "ENGINEER."

WITNESSETH:

WHEREAS, there now exists a Contract (dated May 5, 2004) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements to the 13TH STREET NORTH, 135TH TO 119TH STREET WEST (Project No. 472 84010).

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

**A. PROJECT DESCRIPTION**

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

Connect the existing 12" force main along 13th Street with the proposed Main No. 4 currently under design by Ruggles & Bohm.  
(Project No. 448 90100, OCA. No. 635665)

Adjust elevations because of the bridge constructed east of the project.  
(Project No. 472 84010, OCA No. 706904)

**B. PAYMENT PROVISIONS**

The lump sum fee and the accumulated partial payment limits in Section IV. A. shall be amended as follows:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement shall be made on the basis of the lump sum fee specified below:

Project No. 448 90100	\$1,750.00
Project No. 472 84010	\$1,000.00
TOTAL	\$2,750.00

C. COMPLETION

The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY \_\_\_\_\_;

EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions of inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

D. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

BY ACTION OF THE CITY COUNCIL

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

SCHWAB-EATON, P.A

(Name and Title)

ATTEST:

## **Agenda Item No. 12b.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0639

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for Main 4, Northwest Interceptor Sewer (east and west of 135th Street West, south of 21st Street) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: On November 2, 2004, the City entered into an Agreement with Ruggles & Bohm, P.A. (R&B) for designing Main 4, Northwest Interceptor Sewer. The fee was \$46,400.

Analysis: The project plans for the Main 4, Northwest Interceptor Sewer were nearly complete when it was determined that a gas line had been installed along the project route. It was necessary to have survey crews perform additional survey and the design section make modifications to the project plans as a result of the gas line installation. Also, a request from the Water and Sewer Department was made to modify the design of outside drops on manholes. At that request, Ruggles & Bohm were asked to prepare detail sheets for the revised outside drops to be used on the Main 4, NWI project. A request for additional fee was made to cover costs for the additional survey, design, and detail sheet preparation.

Financial Considerations: Payment to R&B for the Supplemental Agreement will be made on a lump sum basis of \$12,039.50, and will be paid by Water Utility.

Goal Impact: This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of sewer improvements for the community. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

SUPPLEMENTAL AGREEMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES DATED NOVEMBER 2, 2004, BETWEEN THE CITY OF WICHITA, KANSAS PARTY OF THE FIRST PART, HEREINAFTER CALLED THE "CITY."

AND RUGGLES & BOHM, P.A., PARTY OF THE SECOND PART, HEREINAFTER CALLED THE "ENGINEER."

WITNESSETH:

WHEREAS, there now exists a Contract (dated November 2, 2004) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements to MAIN 4, NORTHWEST INTERCEPTOR SEWER (Project No. 468 83889, OCA No. 622091).

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

**A. PROJECT DESCRIPTION**

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following: Plan revisions to include the locations of the new underground utility lines and redesign the Standard Outside Drop Manhole Detail.

**B. PAYMENT PROVISIONS**

The fee in Section IV. A. shall be amended to include the following:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement shall be made on the basis of the lump sum fee amount of \$12,039.50.

**C. COMPLETION**

The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY by \_\_\_\_\_; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions of inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

**D. PROVISIONS OF THE ORIGINAL CONTRACT**

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

BY ACTION OF THE CITY COUNCIL

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

RUGGLES & BOHM, P.A.

(Name and Title)

ATTEST:



## **Agenda Item No. 12c.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0640

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for a Parking Lot for the Planeview Park Football Area (east of Oliver, north of 31st South) (District III)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: On January 26, 2006, the City entered into an Agreement with Certified Engineering Design, P.A. for designing a parking lot for the Planeview Park football area for a fee of \$8,100.

Analysis: The Park Department has asked Certified Engineering to perform additional design work in Planeview Park. The additional work will be to design another parking lot for another playing field to the southerly end of the park. The supplemental fee will cover such design.

Financial Considerations: Payment to Certified Engineering will be on a lump sum basis of \$15,600 and will be paid by General Obligations Bonds.

Goal Impact: This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of parking improvements in an existing neighborhood park.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

Attachments: Supplemental Agreement

SUPPLEMENTAL AGREEMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES DATED JANUARY 26, 2006, BETWEEN, THE CITY OF WICHITA, KANSAS, PARTY OF THE FIRST PART, HEREINAFTER CALLED THE "CITY," AND CERTIFIED ENGINEERING DESIGN, P.A., PARTY OF THE SECOND PART, HEREINAFTER CALLED THE "ENGINEER."

WITNESSETH:

WHEREAS, there now exists a Contract (dated January 26, 2006) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of PARKING LOT FOR PLANEVIEW PARK FOOTBALL AREA (Project No. 472 84349, OCA No. 092010).

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

**A. PROJECT DESCRIPTION**

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

- Topographic survey from south side of drainage channel to east side of existing tennis courts.
- Additional topographic survey from east side of existing tennis courts.
- Design a Parking Lot on the west side of a South Football Field to accommodate approximately 150 vehicles.
- Design site plan, grading plan and irrigation plan for South Football Field.
- Electrical system design for South Football Field.
- Site plan, grading plan and irrigation plan for reorientation of existing Northeast Football Field.
- Electrical system design for Northeast Football Field.

**B. PAYMENT PROVISIONS**

The fee in Section IV. A. shall be amended to include the following:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement shall be made on the basis of the lump sum fee amount of \$15,600.00.

C. COMPLETION

The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY by \_\_\_\_\_;

EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions of inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

D. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

CITY OF WICHITA

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

CERTIFIED ENGINEERING DESIGN, P.A.

(Name and Title)

ATTEST:

## **Agenda Item No. 12d.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0641

TO: Mayor and City Council

SUBJECT: Microfilm Services Contract

INITIATED BY: Department of Finance.

AGENDA: Consent

Recommendation: Approve contract amendment.

Background: The City of Wichita is in the process of converting from microfilm to a LaserFiche document imaging system. LaserFiche is being implemented but more time is needed for training and conversion to LaserFiche.

Analysis: Discussions with Engineering, Planning, Municipal Court, Fire, Human Resources and Central Inspection indicate a continuing need for microfilm services for these departments. They have a large volume of paperwork to convert from microfilm to the new LaserFiche document imaging system. These departments need more time to convert from microfilm to LaserFiche.

The City has a contract with Microfilm Services, which expires June 30, 2006. It is recommended the City extend the existing contract for one year with an 8% increase to cover increasing production costs. The current annual estimated spending for city wide microfilming is \$127,000.

Financial Considerations: The City has adequate funds budgeted in the 2006 and 2007 budget for microfilm services.

Goal Impact: This will impact the Internal Perspective by streamlining our business process. It should cost less by eventually having staff scan all records and improve the speed at which staff and citizens may access City records electronically.

Legal Considerations: The Department of Law will review and approve as to form the contract extension.

Recommendations/Actions: It is recommended that the City Council approve a one-year contract amendment for Microfilm Services, Inc. and authorize the appropriate signatures.

### **CONTRACT AMENDMENT – BP200083**

THIS CONTRACT AMENDMENT is entered into this 20th day of June, 2006, by and between the CITY OF WICHITA, KANSAS, A Municipal Corporation, hereinafter called "CITY", and MICROFILM SERVICES, INC., 128 South Martinson, Wichita, Kansas, 67213, telephone number (316) 269-2203, hereinafter called "VENDOR".

WITNESSETH THAT:

WHEREAS, on the 18th day of June, 2002, the above-named parties entered into a contract for Microfilm Services for the City of Wichita as per the proposal and specifications on April 24, 2002; and

NOW, THEREFORE, the above named parties hereby agree, covenant and contract with each other that the terms of the original contract dated the 18th day of June, 2002, are hereby reaffirmed and re-executed for and on behalf of these parties except for the following amendment, modification and change:

DESCRIPTION	COSTS
Preparation – Labor	\$11.64 Per Hour
Microfilming 16mm Roll Film	\$ .039 Per Image
Engineering Drawings to 35mm Roll Film	\$ .70 Per Drawing
Aperture/Duplicards	\$ .45 Per Card
Microfilm Jackets	\$ .92 Per Each
Processing, Duplicating	\$ 7.02 Per Each
Prints, 18" x 24"	\$ 2.16 Per Each
Prints, 8-1/2" x 11"	\$ .27 Per Each

WHEREAS, the parties now wish to amend the contract by the inclusion of an additional one (1) year contract extension from July 1, 2006 through June 30, 2007 under the same terms and conditions by mutual agreement of both parties for Microfilm Services for the Finance Department, Purchasing Division as approved by City Council on June 20, 2006;

No Arbitration. The Vendor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

Representative's Authority to Contract. By signing this contract, the representative of the contractor or vendor represents the he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties hereto have executed this contract amendment the day and year first above written.

ATTEST:

THE CITY OF WICHITA, KANSAS

Patsy Eichacker  
Deputy City Clerk

Carlos Mayans  
Mayor

APPROVED AS TO FORM:

MICROFILM SERVICES, INC.

Gary E. Rebenstorf  
Director of Law

Title (President or Corporate Officer)TIT

EXHIBIT A

REVISED NON DISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM  
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non Discrimination Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44 1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44 1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non Discrimination Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty five (45) day period from the Federal agency involved.

## **Agenda Item No. 12e.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0642

TO: Mayor and City Council

SUBJECT: Supplemental Agreement for Environmental Monitoring  
for the Gilbert & Mosley Remediation Project (Districts I, III, and VI)

INITIATED BY: Department of Environmental Services

AGENDA: Consent

Recommendations: Approve the supplemental agreement and authorize its signing.

Background: In accordance with an agreement between the City of Wichita and the Kansas Department of Health and Environment (KDHE), the city must conduct sampling and analysis of the groundwater and report its findings for the Gilbert and Mosley Remediation project. Previously, a sampling contract was competitively bid and awarded to Camp Dresser and McKee (CDM). Since awarding the contract, ES staff negotiated with KDHE to reduce the sampling requirements thus extending the service time of the CDM contract by one year (completed at year end 2005). In addition to a sampling and analysis contract, CDM performed a task called report writing in accordance with a separate CDM contract.

Analysis: Staff has negotiated with CDM to complete one contract extension in the amount of \$69,065. This supplemental agreement will allow the City to continue monitoring services with CDM to cover two sampling, analysis and report events. The supplemental agreement reduces the sampling and reporting requirements from quarterly to semi-annual as approved by KDHE. The Supplemental Contract would also give the City an option to extend the contract for two additional sampling events with amount to be negotiated but not exceeding \$71,136.95.

Financial Considerations: The Contract is for \$69,065.00 that is included in the current year's budget of the Gilbert & Mosley Tax Increment Financing Fund. An additional extension will be evaluated at the end of this supplemental agreement but will not exceed \$71,136.95.

Goal Impact: This project addresses the goals for Safe and Secure Community, Ensure Efficient Infrastructure and Support Core Area and Vibrant Neighborhoods by continuing work on the Gilbert and Mosley Remediation Project.

Legal Considerations: The Law Department has approved the Contract as to form.

Recommendation/Actions: It is recommended that the City Council accept the supplemental agreement and authorize the appropriate signatures.

### **SUPPLEMENTAL AGREEMENT – FP400060**

THIS SUPPLEMENTAL AGREEMENT to the Contract is entered into this 3rd day of May, 2006, by and between the City of Wichita, KANSAS, A Municipal Corporation, hereinafter called "CITY", and Camp Dresser & McKee, Inc., hereinafter called "CONSULTANT".

WITNESSETH THAT:



WHEREAS, on the 14th of September, 2004, the above-named parties entered into a contract for Sampling & Testing of Groundwater Monitoring Wells for the Environmental Health Department of the City of Wichita as per the proposal and specifications on June 15, 2004; and

WHEREAS, the specifications for the proposal specified the terms of the contract were to be performed by Consultant by written notice to proceed and as directed by the CITY; and

NOW, THEREFORE, the above named parties hereby agree, covenant and contract with each other that the terms of the original contract dated the 14th day of September, 2004, are hereby reaffirmed and re-executed for and on behalf of these parties except for the following amendment to the Scope of work:

The term of the contract is extended allowing one (1) year of additional site-wide compliance monitoring sampling, one annual and one semiannual event, with data analysis and environmental report writing. The contract extension is based on previous negotiated prices listed as: Sampling rates will be \$120 per sample, \$12 per water level measurement, and \$750 per troll data download (estimated 1 per sampling event), estimated as \$17,500 for the annual sampling event, and \$16,000 for the semi-annual sampling event.

The Consultant will also compile, analyze and provide written report on the compliance monitoring data for one (1) year to include one (1) data transmittal following the semiannual sampling event, estimated cost of \$11,800 and one (1) annual summary report, estimated cost of \$24,500. The reporting efforts will be completed within a reasonable time frame following monitoring periods.

Total of the Supplemental Agreement will not to exceed the amount of \$69,065.

The City may exercise an option to negotiate for a one year renewal of this Supplemental Agreement (FP400060) with mutual consent of both parties, allowing up to a 3% change in the new contract authority – (allowing for cost adjustments due to market changes) at a not to exceed amount of \$71,136.95.

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Representative's Authority to Contract. By signing this contract, the representative of the contractor or vendor represents that he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions. IN WITNESS WHEREOF, the parties hereto have executed this contract amendment the day and year first above written.

ATTEST:  
Patsy Eichacker  
Deputy City Clerk

THE CITY OF WICHITA  
Melinda A. Walker  
Purchasing Manager

APPROVED AS TO FORM:  
Gary E. Rebenstorf  
Director of Law

CAMP DRESSER & MCKEE, INC.  
Signature  
Shawn L. Maloney, P.G.  
Client Officer  
Title (President or Corporate Officer)

CITY OF WICHITA, KANSAS  
Carlos Mayans, Mayor

## **Agenda Item No.13a.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0643

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for a Water Main to Rock Road & K-254 with a Master Metering Station (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The 2006 Capital Improvement Program includes funding for water main replacement. The Staff Screening & Selection Committee selected Baughman for the design on May 15, 2006.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of a water main extension from the existing City of Wichita water system at the southeast corner of 53rd and Rock Road to a location north of US 254. The completed project will provide water service for the Kechi area.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$38,000 and will be paid by Revenue Bonds.

Goal Impact: This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed to provide a viable water system for the community. It also addresses the Economic and Affordable Living goal by providing a public improvement critical for the private sector's development of the surrounding area.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

Attachments: Agreement

AGREEMENT for PROFESSIONAL SERVICES between THE CITY OF WICHITA, KANSAS, and BAUGHMAN COMPANY, P.A., for 16" WATER MAIN TO ROCK ROAD & K-254 WITH A MASTER METERING STATION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

16" WATER MAIN TO ROCK ROAD & K-254  
WITH A MASTER METERING STATION  
(Project No. 448 90196)

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing a 16" water main to Rock Road & K-254 and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$250,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

### IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum payment plus partials made on the basis of the lump sum fee not to exceed \$38,000.00.

During the progress of work covered by this agreement, partial payments may be made to the ENGINEER at intervals of one calendar month. The progress billings shall be supported by documentation acceptable to the City Engineer which shall include a project bar chart or other suitable progress chart indicating progress on the PROJECT and a record of the time period to complete the work, the time period elapsed, and the

time period that remains to complete the work. Billings submitted during the progress of the work will be paid on the basis of satisfactory completion of major project tasks. The major tasks and accumulated partial payment amounts are listed below:

Accumulated partial payments shall not exceed \$19,000.00 (fifty percent of the maximum fee payment amount) until field check plans have been received and approved by the City Engineer for distribution to utility companies. Accumulated partial payments shall not exceed \$26,600.00 (seventy percent of the maximum fee payment amount) until office check plans have been received and approved by the City Engineer for distribution to utility companies. Accumulated partial payments shall not exceed \$30,400.00 (eighty percent of the maximum fee payment amount) until final utility plans allowing for utility relocations or adjustments for the PROJECT have been received and approved by the City Engineer for distribution to the utilities.

Accumulated partial payments for the PROJECT shall be based on milestones in Exhibit A and shall not exceed eighty-five percent (85%) of the total fees for services prior to satisfactory completion of all work required by this agreement

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.
4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL  
Carlos Mayans, Mayor

SEAL:

ATTEST:  
Karen Sublett, City Clerk

APPROVED AS TO FORM:  
Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.  
(Name & Title)  
ATTEST:

EXHIBIT "A"

#### SCOPE OF SERVICES

16" Water Main to Rock Road & K-254  
with a Master Metering Station  
(Project No. 448 90196)

The ENGINEER shall provide professional services for the design of a 16" water main, from the existing 16" water line in Rock Road at 53rd Street North, to the north side of K-254. The ENGINEER shall determine the alignment of the proposed 16" water main. The proposed 16" water main shall be connected to the existing 16" water main in Rock Road and 53rd Street at an existing stub and valve. The ENGINEER shall be responsible to determine the locations, depths, and types of all existing underground facilities along the alignment. The ENGINEER shall be required to work through the ULCC for utility conflicts, including preparation of all printing, etc., required for such meetings. The Engineer shall be required to define all necessary easements, prepare all easement documentation, and tract drawings required for obtaining such easements.

The ENGINEER shall provide professional services for the design of a master metering station. The station will be designed to allow the immediate installation of a 6" compound meter, however, the piping shall be designed such that an 8" compound water meter may be installed in place of the 6" meter in the future. The station shall be housed in a 12 ft. by 12 ft. building. The ENGINEER shall provide three construction options for the building so that Water & Sewer Department staff may determine the option to be constructed. Renderings of the structure shall be provided. The ENGINEER shall determine a location for the metering station and be prepared to provide a legal description of the property on which it will be located. The ENGINEER shall provide legal descriptions, tract drawings, etc., for the metering station site. The ENGINEER shall provide fees for platting of the metering station site, in the event platting is required.

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" Mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

2. Soils and Foundation Investigations. The CITY's Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER's contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.

3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.

4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.

5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the setting monuments of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.

6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.

8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.

9. All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.

10. The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.



11. The Engineer shall complete permanent monumentation of all new R/W, complete and submit all necessary legal documentation for same.

12. Project Milestones. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY within the time allotted for the PROJECT as stipulated below and generally in accordance with the project bar chart attached to Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

(a) Completion of all work required by this agreement (including submittal of final approved plan tracings, field notes, and related PROJECT documents August 31, 2006.

## **Agenda Item No.13b.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0644

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Powells – Water Main Replacement (west of St. Francis, north of 13th Street)  
(Districts I & IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The 2006 Capital Improvement Program includes funding for water main replacement. The Staff Screening & Selection Committee selected Baughman for the design of a water main replacement in Powells Addition on May 15, 2006.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of a water main replacement for the following streets: Sherwood, 15th to 16th, Arkansas from 15th to 16th, 15th from Sherwood to Broadway, 14th from Rochester to Fairview, C from Rochester to Waco, Topeka from 13th to 18th, 15th from Topeka to Emporia, and 16th from Topeka to Emporia. The total length of the water main replacement is approximately 9,900 feet.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$46,000 and will be paid by the Water Utility.

Goal Impact: This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of water improvements for existing neighborhood.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

Attachments: Agreement

AGREEMENT for PROFESSIONAL SERVICES between THE CITY OF WICHITA, KANSAS  
And BAUGHMAN COMPANY, P.A., for POWELLS – WATER MAIN RELACEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

POWELLS – WATER MAIN RELACEMENT  
(Project No. 448 90197)

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing water main replacement in Powells Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$250,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees

arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

### IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum payment plus partials made on the basis of the lump sum fee amount of \$46,000.00.

During the progress of work covered by this agreement, partial payments may be made to the ENGINEER at intervals of one calendar month. The progress billings shall be supported by documentation acceptable to the City Engineer which shall include a project bar chart or other suitable progress chart indicating progress on the PROJECT and a record of the time period to complete the work, the time period elapsed, and the time period that remains to complete the work. Billings submitted during the progress of the work will be paid on the basis of satisfactory completion of major project tasks. The major tasks and accumulated partial payment amounts are listed below:

Accumulated partial payments shall not exceed \$23,000.00 (fifty percent of the maximum fee payment amount) until field check plans have been received and approved by the City Engineer for distribution to utility companies. Accumulated partial payments shall not exceed \$32,200.00 (seventy percent of the maximum fee payment amount) until office check plans have been received and approved by the City Engineer for distribution to utility companies. Accumulated partial payments shall not exceed \$36,800.00 (eighty percent of the

maximum fee payment amount) until final utility plans allowing for utility relocations or adjustments for the PROJECT have been received and approved by the City Engineer for distribution to the utilities.

Accumulated partial payments for the PROJECT shall be based on milestones in Exhibit A and shall not exceed eighty-five percent (85%) of the total fees for services prior to satisfactory completion of all work required by this agreement

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.
4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

---

(Name & Title)

ATTEST:

Exhibit "A"

## SCOPE OF SERVICES

### POWELLS - WATER MAIN REPLACEMENT

(Project No. 448 90197)

The ENGINEER shall design a water main replacement for the following streets: an 8-inch water main in Sherwood from 15th to 16th, Arkansas from 15th to 16th, 15th from Sherwood to Broadway, 14th from Rochester to Fairview, C from Rochester to Waco, Topeka from 13th to 18th, 15th from Topeka to Emporia, and 16th from Topeka to Emporia. The total length of the water main replacement is approximately 9,900 feet. The design shall include the following: water main replacement items, installation of additional fire hydrants and valves to allow for adequate flushing of the new water mains, fire protection for the area, abandonment requirements for the existing water system, water service replacement items, water service tables, and any other items necessary to allow the construction, clearing, and testing, of the water main replacement project.

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" Mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

#### A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

2. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.

3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the setting monuments of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
10. The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
11. The Engineer shall complete permanent monumentation of all new R/W, complete and submit all necessary legal documentation for same.
12. Project Milestones. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY within the time allotted for the PROJECT as stipulated below and generally in accordance with the project bar chart attached to Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.
  - (a.) Completion of all work required by this agreement (including submittal of final approved plan tracings, field notes, and related PROJECT documents no longer than 3 months. The design and CONSTRUCTION, is to be completed no later than May 1, 2007. NOTE, BY MAY 1, 2007, THIS IS TO BE IN THE GROUND, NOT JUST DESIGNED.

## **Agenda Item No. 14a.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0645

TO: Mayor and City Council

SUBJECT: Equus Beds Aquifer Storage and Recovery Project Phase I - Change Order

INITIATED BY: Water & Sewer Department

AGENDA: Consent Agenda

Recommendation: Approve Change Order No. 1 with Snodgrass Construction.

Background: On January 10, 2006, the City approved a Design/Build project with CAS Construction to construct a surface water treatment plant. On February 2, 2006, the City Council approved a Contract with Snodgrass Construction to construct facilities associated with Phase I of the Equus Beds Aquifer Storage and Recovery (ASR). The ASR project is a key component in the City's future water supply plan.

Analysis: Phase I with Snodgrass Construction includes a surface water intake, four recharge and recovery wells and two recharge basins. The Design/Build project includes the construction of a 7 mgd surface water treatment plant that uses water captured by facilities of the Phase I project. As design work was being done, it was recognized that significant savings could be achieved if the recharge facilities using surface water could be separated from those using diversion well water through the use of an additional water line. An additional three miles of pipeline will be required to separate the recharge systems. Change Order No. 1 also includes increasing the depth of one of the recharge basins by four feet to increase the basin's recharging ability and the elimination of recharge wells located within the second recharge basin.

Financial Considerations: The original Contract was \$9,173,480. Change Order No. 1 will increase the Contract by \$862,934, or 9.4 percent to \$10,036,414. Funds are available in CIP W-549, Water Supply Plan, which has over \$26 million available in 2006.

Adding three miles of pipeline to separate the recharge systems will cost \$920,000, but separating facilities using surface water from diversion well water reduces construction costs by approximately \$3.5 million. Increasing the depth of one recharge basin will cost \$293,159 and eliminating recharge wells within the second recharge basin will result in a deduction of \$389,548.

Goal Impact: The Change Order will ensure efficient infrastructure by providing reliable, compliant and secure utilities. The project assures adequate water supplies now and in the future, and is a critical component of the City's infrastructure.

Legal Considerations: The Law Department has approved the Change Order as to form.

Recommendations/Actions: It is recommended that the City Council approve the Change Order and authorize the necessary signatures.



## **Agenda Item No. 14b.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0646

TO: Mayor and City Council Members

SUBJECT: Change Order: Kellogg-Woodlawn Interchange (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Change Order.

Background: On December 10, 2002, the City Council approved a construction contract with Sherwood Construction Company, Inc. to construct the Kellogg-Woodlawn Interchange. During construction of the project, a number of unforeseen items developed that should be addressed as a Change Order:

Pavement marking width was increased from 4" to 6" to comply with new KDOT standards for high volume roadways.

Soil material at two locations was unsuitable to support the new pavement and was removed and replaced.

Modifications were made to the storm water pump station to be compatible with the City's other storm water pump systems and to reduce ongoing maintenance costs.

Analysis: A Change Order has been prepared for the cost of the additional work. Funding is available within the project budget.

Financial Considerations: The cost of the additional work is \$103,004 with the total paid by a combination of Local Sales Tax (\$33,991) and State System Enhancement Funds (\$69,013). The original contract amount is \$53,152,398. This Change Order plus previous change orders represents 0.2% of the original contract amount.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving the traffic capacity and safety along a vital transportation corridor.

Legal Considerations: The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

Recommendation/Action: It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

## **Agenda Item No. 15.**

CITY OF WICHITA  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0647

TO: Mayor and City Council

SUBJECT: Partial Acquisition of Land for Right-of-Way in the 7800 Block of West 37th Street North (District V)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: In January 2006, staff was instructed to pursue acquisition of several tracts of land for roadway and storm water drainage improvements along West 37th Street between Ridge Road and Tyler Road. There are five tracts required for the project. These are strip acquisitions along the north line of three residentially zoned parcels and two commercially zoned parcels. The owners of the commercial parcels have agreed to donate the necessary right-of-way and easements. On April 25, 2006 the City Council approved acquisition of the residential properties through eminent domain and staff was instructed to continue the negotiations. This particular tract impacted by the project is approximately 18.6 acres of vacant agricultural land along the south side of 37th Street, west of 7817 West 37th Street. A strip containing 23,105.1 square feet is required.

Analysis: The agricultural tract was appraised at \$10,300 (\$.315 per square foot). The owner presented comparable sales supporting up to \$1.00 per square foot. The owner has agreed to sell the 23,105 square foot strip for \$23,105 or \$1.00 per square foot.

Financial Considerations: A budget of \$23,905 is requested for the acquisition. This amount includes \$23,105 for the acquisition and \$800 for closing costs and title insurance. The funding source is General Obligation Bonds and Federal Grants administered by the Kansas Department of Transportation.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure as this area is rapidly growing.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendation/Action: It is recommended that the City Council 1) Approve the Real Estate Purchase Contract; 2) Approve the budget and 3) Authorize the necessary signatures.

## **Agenda Item No. 16.**

City of Wichita  
City Council Meeting

June 20, 2006

Agenda Report No. 06-0648

TO: Mayor and City Council Members

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures  
Council Districts I

INITIATED BY: Office of Central Inspection

AGENDA: Consent

Recommendations: Adopt the resolutions.

Background: On June 5, 2006, the Board of Code Standards and Appeals (BCSA) held a hearing on the following five (5) properties. These properties are considered dangerous and unsafe structures, and are being presented to schedule a condemnation hearing before the Governing Body.

Analysis: Violation notices have been issued on these structures, however, compliance has not been achieved. Pre-condemnation and formal condemnation letters were issued and the time granted has expired. No action has been taken to repair or remove these properties.

Property Address	Council District
a. 1255 North Poplar	I
b. 1258 North Green	I
c. 1718 North Green	I
d. 2145 East Shadybrook	I
e. 1626 North Oliver	I

Goal Impact: On January 24, 2006 the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Continued revitalization of the Core Area. Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Legal Considerations: These structures have defects that under Ordinance No. 28-251 of the Code of the City of Wichita, shall cause them to be deemed as dangerous and unsafe buildings, as required by State Statute for condemnation consideration.

Recommendations/Actions: Adopt the attached resolutions to schedule a hearing and place these matters on the agenda for a Hearing before the Governing Body on August 1, 2006 at 9:30 a.m. or as soon thereafter.

Attachments: Resolutions:

\_\_\_\_PUBLISHED IN THE WICHITA EAGLE ON\_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: LOTS 49-51 MONA NOW POPLAR STREET, FAIRMOUNT PARK ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS KNOWN AS 1255 N. POPLAR MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the 20th day of June, 2006, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita.

That a hearing will be held on the 1st day of August, 2006, before the governing body of the city at 9:30 A.M., or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at Lots 49-51 Mona now Poplar Street, Fairmount Park Addition, Wichita, Sedgwick County, Kansas, known as: 1255 N. Poplar, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is a one-story, frame dwelling about 30 x 60 feet in size. Vacant for over two years, this structure has badly shifting basement walls; broken and missing siding shingles; exposed, rotted wall studs; deteriorating composition roof; rotted wood trim; and the 12 x 60 foot accessory shed is dilapidated.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this 20th day of June, 2006.

\_\_\_\_\_  
Carlos Mayans, Mayor

(SEAL)

ATTEST:\_\_\_\_\_  
Karen Sublett, City Clerk

\_\_\_\_PUBLISHED IN THE WICHITA EAGLE ON\_\_\_\_  
RESOLUTION NO. \_\_\_\_\_

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: LOTS 50-52 GREEN STREET, FAIRMOUNT PARK ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS KNOWN AS 1258 N. GREEN MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the 20th day of June, 2006, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita.

That a hearing will be held on the 1st day of August, 2006, before the governing body of the city at 9:30 A.M., or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at Lots 50-52 Green Street, Fairmount Park Addition, Wichita, Sedgwick County, Kansas, known as: 1258 N. Green, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is a one-story, frame dwelling about 24 x 30 feet in size. Vacant for over three years, this structure has a shifting block foundation; broken and missing siding shingles; rotted front porch cover; and rotted wood trim.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this 20th day of June, 2006.

\_\_\_\_\_  
Carlos Mayans, Mayor

(SEAL)

ATTEST:\_\_\_\_\_  
Karen Sublett, City Clerk

\_\_\_\_\_PUBLISHED IN THE WICHITA EAGLE ON\_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: LOTS 32-34, SECOND FAIRMOUNT ORCHARDS ADDITION. KNOWN AS 1718 N. GREEN MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the 20th day of June, 2006, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita.

That a hearing will be held on the 1st day of August, 2006, before the governing body of the city at 9:30 A.M., or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at Lots 32-34, Second Fairmount Orchards Addition., known as: 1718 N. Green, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is a one-story, frame dwelling about 24 x 32 feet in size. Vacant for over seven years, this structure has a shifting concrete block foundation; broken and missing siding shingles; badly deteriorated composition roof; rotted wood trim; and the 12 x 60 foot accessory shed is dilapidated.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this 20th day of June, 2006.

\_\_\_\_\_  
Carlos Mayans, Mayor

(SEAL)

ATTEST:\_\_\_\_\_  
Karen Sublett, City Clerk

\_\_\_\_PUBLISHED IN THE WICHITA EAGLE ON\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: LOT 2, BLOCK 3, BUILDERS 2ND ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS KNOWN AS 2145 E. SHADYBROOK MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the 20th day of June, 2006, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita.

That a hearing will be held on the 1st day of August, 2006, before the governing body of the city at 9:30 A.M., or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at Lot 2, Block 3, Builders 2nd Addition, Wichita, Sedgwick County, Kansas, known as: 2145 E. Shadybrook, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is a one-story, brick over frame dwelling about 25 x 33 feet in size. Vacant for at least a year, this structure has badly shifting, collapsing basement walls; crumbling and missing brick facade; exposed, rotted framing members; and deteriorated concrete porches.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this 20th day of June, 2006.

\_\_\_\_\_  
Carlos Mayans, Mayor

(SEAL)

ATTEST:\_\_\_\_\_  
Karen Sublett, City Clerk



\_\_\_\_PUBLISHED IN THE WICHITA EAGLE ON\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: NORTH 10 FT. LOT 33 - ALL LOTS 34-35 BLOCK 16, UNIVERSITY HEIGHTS ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS KNOWN AS 1626 N. OLIVER MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the 20th day of June, 2006, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita.

That a hearing will be held on the 1st day of August, 2006, before the governing body of the city at 9:30 A.M., or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at North 10 ft. Lot 33 - All Lots 34-35 Block 16, University Heights Addition, Wichita, Sedgwick County, Kansas, known as: 1626 N. Oliver, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is a one-story, frame dwelling about 33 x 36 feet in size. Vacant for over three years, this structure has badly deteriorated, rotted wood lap siding; rotted wood trim; and the 12 x 10 foot accessory shed is dilapidated.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this 20th day of June, 2006.

\_\_\_\_\_  
Carlos Mayans, Mayor

(SEAL)

ATTEST:\_\_\_\_\_  
Karen Sublett, City Clerk

Agenda Item No. 17.

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0649

TO: Mayor and City Council

SUBJECT: Closing Documents for Railbanking of BNSF Right-of-Way from Hydraulic Avenue to Butler County Line

INITIATED BY: Metropolitan Area Planning Department

AGENDA: City Council Consent

Recommendations: Authorize the Mayor to sign the closing documents in accordance with the April 18, 2005, Railbanking and Donation Contract.

Background: Following the application by the BNSF Railway Company to abandon its rail line from downtown Wichita to Andover, the City of Wichita applied to railbank this corridor under the provisions of the National Trails System Act. As a result, the City and BNSF agreed to a Railbanking and Donation Contract, dated April 18, 2005, that outlines the manner by which jurisdiction over this rail corridor would be transferred from the railroad to the City.

Analysis: The documents that must be signed by the City are a Quitclaim Deed and a Bill of Sale. The Quitclaim Deed transfers BNSF's interests in the corridor to the City, subject to the limitations on its use by the City imposed by the National Trails System Act and a reservation that the corridor can be reactivated as a rail line in the future. The Bill of Sale enables BNSF to demonstrate for tax purposes that it has donated their property interest to the City.

Financial Considerations: There is no direct financial consideration to the City in completing this transaction. However, the City does assume responsibility for maintenance of the right-of-way. Departments with those responsibilities have been notified and have incorporated any additional costs into their budgets.

Goal Impact: Infrastructure. Completion of this transaction will ensure the preservation of right-of-way that is being used for City-owned utilities and will preserve existing drainage structures and patterns.

Legal Considerations: Law has reviewed the closing documents and determined that they are consistent with the previously approved Railbanking and Donation Contract.

Recommendation/Actions: It is recommended that the City Council authorize the Mayor to sign the closing documents in accordance with the April 18, 2005, Railbanking and Donation Contract.

## **Agenda Item 18.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0650

TO: Mayor and Members of the City Council

SUBJECT: General Obligation Bond and Note Sale

INITIATED BY: Finance Department

AGENDA: Consent

Recommendation: Adopt the resolution.

Background: The City is planning to offer for sale two series of general obligation temporary notes totaling \$58,845,000 (Series 216 and 217) and two series of general obligation bonds (Series 786 and 786A) totaling \$11,495,000 for the purpose of providing interim and permanent financing for capital improvement projects of the City. The public sale of the bonds and notes is scheduled for 10:30 a.m. on July 11, 2006, at which time bids will be opened and the City Council will award the sale of bonds and notes to the bidders whose proposed interest rates result in the lowest overall cost to the City.

Analysis: The City's Summer 2006 general obligation bond and note sale includes the following issues:

### Temporary Notes

The proceeds from the sale of the Series 216 Renewal and Improvement Temporary Notes will be used to provide interim financing for City-at-large, improvement district projects and public improvements located within the East Bank Tax Increment Financing District. The Series 217 Taxable Renewal Temporary Notes will also be used to provide interim financing for improvements located within the East Bank Tax Increment Financing District.

### Special Assessment Bonds

The proceeds from the sale of the Series 786 and 786A Bonds will be used to permanently finance neighborhood improvements located in special improvement districts. Special assessments have been levied against the property owners in the improvement districts for the purpose of paying all or a portion of the costs of such improvements, including the payment of principal and interest on Series 786 and Series 786A Bonds. The Special Assessment Bonds, Series 786, will be issued in the par amount of \$10,575,000. The Special Assessment Bonds, Series 786A, will be issued in the par amount of \$920,000.

Financial Considerations: The City of Wichita awards the sale of bonds and notes to the bidder with the lowest true interest cost, or "TIC". Using TIC to calculate the bids, accounts for the time value of money. The TIC is the rate that will discount all future cash payments so that the sum of their present value will equal the bond proceeds. Further, using the TIC calculation can potentially result in the City saving money because TIC does not ignore the timing of interest payments.

The Series 216 and 217 Temporary Notes will mature on February 8, 2007 and will be retired using the proceeds of both permanent financing bonds, renewal notes and cash.

The Series 786 Special Assessment Bonds will mature serially over 15 years with principal maturities structured to produce level annual payments of principal and interest. The Series 786 Bonds are payable from the collection of special assessments levied against benefiting properties, and if not so paid, from Citywide ad valorem taxes. The Series 786 Special Assessment Bonds will be callable in 2013 with a 1% call premium.

The Series 786A Special Assessment Bonds will mature serially over 20 years with principal maturities structured to produce level annual payments of principal and interest. The Series 786A Bonds are payable from the collection of special assessments levied against benefiting properties, and if not so paid, from Citywide ad valorem taxes. The Series 786A Special Assessment Bonds will be callable in 2016 with a 1% call premium.

Goal Impact: This item impacts the Economic Vitality/Affordable Living and Internal Perspectives through the temporary and permanent financing of capital improvements and offering the City's debt obligations through competitive sale. The sale of temporary notes allows short-term financing of improvements that shall be permanently financed through the issuance of bonds or pay-as-you-go financing. The special assessment bonds are being issued on a reimbursement basis to finance project costs previously incurred.

Legal Considerations: The Law Department has approved the Resolution authorizing the sale of the series of bonds and notes and directing the publication and distribution of the Notices of Bond and Note Sale (prepared by the City's Bond Counsel as required by law).

Recommendation/Action: It is recommended the City Council adopt the resolution authorizing general obligation bond and note sales, approve the submittal of the Preliminary Official Statement upon completion, and authorize publication of the Notices of Sale.

Attachment: Resolution

RESOLUTION NO. R-06-\_\_\_\_\_

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, AUTHORIZING AND PROVIDING FOR THE PUBLIC SALE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 216, GENERAL OBLIGATION RENEWAL TEMPORARY NOTES, SERIES 217 (TAXABLE UNDER FEDERAL LAW) AND GENERAL OBLIGATION BONDS, SERIES 786 AND 786A; AND PROVIDING FOR THE GIVING OF NOTICE OF THE PUBLIC SALE.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), has heretofore by various duly held proceedings, authorized the making of certain capital improvements in the City, and made provision for expenditures and funding sources therefore, and provided in said proceedings for the financing of the costs of said capital improvements by the issuance of general obligation bonds of the City; and

WHEREAS, the City is empowered by the provisions of K.S.A. 10-123, as amended and supplemented, to issue its temporary notes to pay the costs of capital improvements which are to be paid for in whole or in part by the issuance of bonds, and may issue renewal temporary notes to pay for the cost of taking up any previously issued temporary notes as they mature when all aspects of the capital improvements will not be completed at the maturity date of the notes or when the capital improvements are completed but the issuance of bonds therefor is prevented, hindered or delayed; and

WHEREAS, the Governing Body has further heretofore by duly held proceedings authorized and issued its General Obligation Renewal and Improvement Temporary Notes, Series 215, dated February 9, 2006, which mature August 10, 2006 (the "Series 215 Notes"), for the purpose of financing certain of the aforesaid capital improvements, and has further heretofore by various duly held proceedings, authorized or provided for the making of certain additional capital improvements in the City, and has provided for the financing of certain of the costs thereof by the issuance of temporary notes and general obligation bonds of the City, and the Governing Body hereby finds and determines that it is necessary at this time to provide temporary tax-exempt financing for the costs in connection with refinancing a portion of the Series 215 Notes and in connection such capital improvements in an aggregate principal amount of \$54,455,000 and temporary taxable financing for the costs in connection with refinancing a portion of the Series 215 Notes in an aggregate principal amount of \$4,390,000; and

WHEREAS, the Governing Body has further heretofore by various duly held proceedings, authorized or provided for the making of certain capital improvements in the City which benefit specific properties, and provided for the financing of certain costs thereof by the issuance of general obligation bonds of the City which will be payable from the collection of special assessment taxes levied against real properties benefited by said capital improvements over a period of 15 years; and the Governing Body hereby finds and determines that it is necessary at this time to provide tax-exempt financing for the costs in connection with such capital improvements in an aggregate amount of \$10,575,000; and

WHEREAS, the Governing Body has further heretofore by various duly held proceedings, authorized or provided for the making of certain capital improvements in the City which benefit specific properties, and provided for the financing of certain costs thereof by the issuance of general obligation bonds of the City which will be payable from the collection of special assessment taxes levied against real properties benefited by said capital improvements over a period of 20 years; and the Governing Body hereby finds and determines that it is necessary at this time to provide tax-exempt financing for the costs in connection with such capital improvements in an aggregate amount of \$920,000; and

WHEREAS, the City is empowered by the provisions of K.S.A. 10-101 et seq., as amended and supplemented, to issue, sell and deliver its general obligation bonds, and is required, by K.S.A. 10-106, as amended and

supplemented, to sell such general obligation bonds at public sale if the principal amount therefore exceeds \$100,000; and

WHEREAS, the Governing Body hereby finds and determines it to be necessary at this time to authorize and provide for the public sale of the City's general obligation renewal and improvement temporary notes and general obligation bonds for the aforesaid purposes.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. It is hereby found and determined to be necessary and it is hereby authorized, ordered and directed that the hereinafter described general obligation renewal and improvement temporary notes (the "Notes") and the hereinafter described general obligation bonds (the "Bonds"), of the City shall be sold at public sale on Tuesday, July 11, 2006. Bids for the purchase of the Notes and the Bonds shall be accepted through the PARITY Electronic Bid Submission System and by facsimile transmission until 10:30 o'clock A.M., C.T., and will at such time be read aloud and tabulated by the City staff. The bids will be considered and the Notes and the Bonds will be awarded to the respective best bidders by the Governing Body at their earliest convenience following the deadline for receipt of the bids.

The Notes to be so sold shall be dated August 10, 2006, will be authorized by and issued pursuant to ordinances to be adopted by the Governing Body immediately after the awarding of the Notes to the best bidder on the aforesaid sale date, and will be issued in the manner provided by K.S.A. 10-101 et seq., as amended and supplemented, including specifically K.S.A. 10-123, as amended and supplemented. The Notes to be so sold shall be designated as (A) General Obligation Renewal and Improvement Temporary Notes, Series 216, which shall be issued in the principal amount of \$54,455,000 and (B) General Obligation Renewal Temporary Notes, Series 217 (Taxable Under Federal Law), which shall be issued in the principal amount of \$4,390,000.

The Bonds to be so sold shall be dated August 1, 2006, will be authorized by and issued pursuant to ordinances to be adopted by the Governing Body immediately after the awarding of the Bonds to the best bidders on the aforesaid sale date, and will be issued in the manner provided by K.S.A. 10-101 et seq., as amended and supplemented. The Bonds to be so sold shall be designated as (A) General Obligation Bonds, Series 786, which shall be issued in the principal amount of \$10,575,000 and (B) General Obligation Bonds, Series 786A, which shall be issued in the principal amount of \$920,000.

SECTION 2. It is hereby further found and determined to be necessary, and it is hereby further authorized, ordered and directed, that a Summary Notice of Bond Sale containing various recitals required by law and in such final form as shall be prepared by Kutak Rock LLP, the City's Bond Counsel ("Bond Counsel"), and approved by City staff, shall be published one time as required by law on a date which is at least six (6) but not more than thirty (30) days prior to the date of the public sale, in a newspaper of general circulation in Sedgwick County, Kansas, and in The Kansas Register, the official newspaper of the State of Kansas.

SECTION 3. It is hereby further found and determined to be necessary, and it is hereby further authorized, ordered and directed, that copies of the City's Official Notice of Sale, containing various recitals required by law and in such final form as shall be prepared by Bond Counsel and approved by City staff together with the City's Preliminary Official Statement dated June 20, 2006, shall be distributed to prospective bidders for the Notes and Bonds. Said Preliminary Official Statement as prepared by Bond Counsel and City staff is hereby approved by the Governing Body, subject to such minor revisions as may be determined necessary by the Director of Finance and Bond Counsel, and the Governing Body hereby finds and determines that such Preliminary Official Statement is in a form "deemed final" for the purpose of the Securities Exchange Commission's Rule 15c2-12(b)(1), subject to revision, amendment and completion in the final Official Statement.

ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on June 20, 2006.

(Seal)

Carlos Mayans, Mayor

Attest

Karen Sublett, City Clerk

Approved as to form

Gary E. Rebenstorf, Director of Law

**CITY OF WICHITA, KANSAS**

**OFFICIAL NOTICE OF SALE**

**\$10,575,000 GENERAL OBLIGATION BONDS, SERIES 786**

**\$920,000 GENERAL OBLIGATION BONDS, SERIES 786A**

**\$54,455,000 GENERAL OBLIGATION RENEWAL AND**

**IMPROVEMENT TEMPORARY NOTES, SERIES 216**

**\$4,390,000 GENERAL OBLIGATION RENEWAL**

**TEMPORARY NOTES, SERIES 217 (TAXABLE UNDER FEDERAL LAW)**

**(General Obligation Bonds and Notes Payable from Unlimited Ad Valorem Taxes)**

**Date, Time And Place of Receiving Bids**

Bids will be received by the Director of Finance on behalf of the Governing Body of the City of Wichita, Kansas (the "City"), via facsimile, as set forth herein, or, in the case of electronic proposals via PARITY electronic bid submission system ("PARITY"), until 10:30 a.m., Central Time, on: TUESDAY, JULY 11, 2006, for the purchase of \$10,575,000 principal amount of General Obligation Bonds, Series 786 (the "Series 786 Bonds"), \$920,000 principal amount of General Obligation Bonds, Series 786A (the "786A Bonds"), \$54,455,000 principal amount of General Obligation Renewal and Improvement Temporary Notes, Series 216 (the "Series 216 Notes"), and \$4,390,000 General Obligation Renewal Temporary Notes, Series 217 (Taxable Under Federal Law) (the "Series 217 Notes").

All bids shall be publicly read and tabulated on the date and at the time above indicated and all bids and the tabulations thereof shall thereafter be presented to the Governing Body of the City at their earliest convenience in the Council Chamber at City Hall. The Series 786 Bonds and the Series 786A Bonds are herein collectively referred to as the "Bonds." The Series 216 Notes and the Series 217 Notes are herein collectively referred to as the "Notes." The Governing Body will thereupon award each series of the Bonds and each series of the Notes to the respective best bidders.

Each series of Bonds and Notes shall be sold separately, and bidders may bid on any series of Bonds or Notes. No oral or auction bid for any series of Bonds or Notes shall be considered, and no bid for less than the entire principal amount of the applicable series of Bonds or Notes shall be considered.

**Description of Bonds**

**Series 786 Bonds.** The Series 786 Bonds shall be issued in the aggregate principal amount of \$10,575,000, shall bear a Dated Date of August 1, 2006, shall be issued in book-entry-only form, and individual purchases may be made in denominations of \$5,000 or integral multiple thereof. The Series 786 Bonds shall mature serially on September 1 in the years and principal amounts as follows:

**Maturity Schedule - Series 786 Bonds**

Maturing	September 1	Principal Amount	Maturing	September 1	Principal Amount
2007	\$510,000		2015	\$725,000	
2008	535,000		2016	755,000	
2009	555,000		2017	790,000	
2010	580,000		2018	825,000	
2011	610,000		2019	860,000	
2012	635,000		2020	900,000	
2013	665,000		2021	940,000	
2014	690,000				

The Series 786 Bonds shall bear interest at the rates specified by the successful bidder, and interest shall be payable semiannually on March 1 and September 1 of each year, commencing September 1, 2007.

Series 786A Bonds. The Series 786A Bonds shall be issued in the aggregate principal amount of \$920,000, shall bear a Dated Date of August 1, 2006, shall be issued in book-entry-only form, and individual purchases may be made in denominations of \$5,000 or integral multiples thereof. The Series 786A Bonds shall mature serially on September 1 in the years and principal amounts as follows:

Maturity Schedule - Series 786A Bonds

Maturing	September 1	Principal Amount	Maturing	September 1	Principal Amount
2007	\$30,000		2017	\$45,000	
2008	30,000		2018	50,000	
2009	30,000		2019	50,000	
2010	35,000		2020	50,000	
2011	35,000		2021	55,000	
2012	35,000		2022	55,000	
2013	40,000		2023	60,000	
2014	40,000		2024	60,000	
2015	40,000		2025	65,000	
2016	45,000		2026	70,000	

The Series 786A Bonds shall bear interest at the rates specified by the successful bidder, and interest shall be payable semiannually on March 1 and September 1 of each year, commencing March 1, 2007.

Redemption of Bonds

Series 786 Bonds. The Series 786 Bonds maturing in the years 2007 through 2013, inclusive, shall become due on their stated maturity dates without the option of prior payment. At the option of the City, the Series 786 Bonds maturing September 1, 2014, and thereafter, may be called for redemption and payment prior to their respective maturities on and after September 1, 2013, in whole or in part at any time. Series 786 Bonds called for redemption and payment shall be redeemed at a price (expressed as a percentage of the principal amount) as follows, plus accrued interest to the date established for redemption and payment:

Redemption Dates      Redemption  
(Inclusive)      Prices

September 1, 2013, through August 31, 2014	101.00%
September 1, 2014, through August 31, 2015	100.50%
September 1, 2015, and thereafter	100.00%

Series 786A Bonds. The Series 786A Bonds maturing in the years 2007 through 2016, inclusive, shall become due on their stated maturity dates without the option of prior payment. At the option of the City, the Series 786A Bonds maturing September 1, 2017, and thereafter, may be called for redemption and payment prior to their respective maturities on and after September 1, 2016, in whole or in part at any time. Series 786A Bonds called for redemption and payment shall be redeemed at a price (expressed as a percentage of the principal amount) as follows, plus accrued interest to the date established for redemption and payment:



Redemption Dates      Redemption  
(Inclusive)      Prices

September 1, 2016, through August 31, 2017	101.00%
September 1, 2017, through August 31, 2018	100.50%
September 1, 2018, and thereafter	100.00%

General Redemption Provisions. Bonds subject to call for redemption and payment maybe called in whole or in part at any time from and after the first date authorized for the redemption thereof as set forth above.

If less than all of a series of outstanding Bonds are called for redemption on a specified date, the method of selection of the Bonds to be so called shall be designated by the City in such equitable manner as it may determine. In the case of Bonds registered in denominations greater than \$5,000, the City shall treat each \$5,000 of face value as though it were a separate Bond in the denomination of \$5,000.

Written notice of any call for redemption and payment of the Bonds shall be given by the Paying Agent by United States first class mail, not less than 30 days prior to the date established for such redemption and payment, to the Registered Owners of the Bonds so called for redemption and payment as shown by the Registration Books maintained by the Bond Registrar.

Paying Agent and Bond Registrar

The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as Paying Agent and Bond Registrar for the Bonds (hereinafter called the “Paying Agent”). The fees of the Paying Agent for the registration, transfer, exchange, payment and redemption, if any, of the Bonds shall be paid by the City. The City shall also pay for the printing of a reasonable supply of blank registered bond certificates for such purpose. Any additional costs or fees that might be incurred in the secondary market, except the fees of the Paying Agent, shall be the responsibility of the Registered Owners of the Bonds.

Payment of Principal and Interest on Bonds; Ownership Registration

One certificate representing the entire principal amount of each maturity of each series of the Bonds will be issued to The Depository Trust Company, New York, New York (hereafter called “DTC”), registered in the name of Cede & Co. (DTC’s nominee), and will be immobilized in the custody of DTC. A book-entry-only system of issuance will be employed, evidencing ownership of the Bonds in the permitted \$5,000 denominations, with transfers of ownership effected on the records of DTC and its Direct Participants pursuant to the rules and procedures established by DTC and its participants. Principal and interest on the Bonds will be paid in same-day funds to DTC or its nominee as the Registered Owner of the Bonds. DTC’s practice is to credit Direct Participants’ accounts on the payable date. Payments by Direct Participants to Beneficial Owners will be governed by standing instructions and customary practices. The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants. Reference is made to the Preliminary Official Statement for further information regarding the book-entry-only issuance of the Bonds.

Description of Notes

Series 216 Notes. The General Obligation Renewal and Improvement Temporary Notes, Series 216, shall be issued in the principal amount of \$54,455,000, shall bear a Dated Date of August 10, 2006, and a Maturity Date of February 8, 2007, shall be issued in book-entry-only form, and individual purchases may be made in denominations of \$5,000 or integral multiples thereof. The Series 216 Notes shall bear interest from the Dated Date at the rate which shall be determined upon the public sale of the Series 216 Notes, and said interest shall be payable on the Maturity Date.

Series 217 Notes. The General Obligation Renewal Temporary Notes, Series 217 (Taxable Under Federal Law), shall be issued in the principal amount of \$4,390,000, shall bear a Dated Date of August 10, 2006 and a Maturity Date of February 8, 2007, shall be issued in book-entry-only form, and individual purchases may be made in denominations of \$5,000 or integral multiples thereof. The Series 217 Notes shall bear interest from the Dated Date at the rate which shall be determined upon the public sale of the Series 217 Notes, and said interest shall be payable on the Maturity Date.

## Redemption of Notes

The Notes are not subject to call for redemption and payment prior to the Maturity Date.

## Payment of Principal and Interest on Notes; Ownership Registration

One certificate representing the entire principal amount of each series of the Notes will be issued to The Depository Trust Company, New York, New York (hereafter called "DTC"), registered in the name of Cede & Co. (DTC's partnership nominee,) and will be immobilized in the custody of DTC. A book-entry-only system of issuance will be employed, evidencing ownership of the Notes in the hereinbefore stated permitted denominations, with transfers of ownership effected on the records of DTC and its Direct Participants pursuant to the rules and procedures established by DTC and its participants. Principal and interest on the Notes will be paid in same-day funds to DTC or its nominee as the Registered Owner of the Notes. DTC's practice is to credit Direct Participants' accounts on the payable date. Payments by Direct Participants to Beneficial Owners will be governed by standing instructions and customary practices. The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such

participants. Reference is made to the Preliminary Official Statement for further information regarding the book-entry-only issuance of the Notes.

## Paying Agent and Note Registrar

The City shall act as Note Registrar through the Office of the City Clerk and shall act as Paying Agent for the Notes through its Department of Finance.

## Conditions of Bidding

Individual proposals for the purchase of each series of Bonds and/or Notes shall be received bearing such rate or rates of interest as may be specified by the bidder, subject to the conditions of this paragraph. Only a single rate of interest for each series of the Notes may be specified by the bidder. The same rate of interest shall apply to all Bonds of the same series having the same maturity date. Each interest rate specified shall be in an even multiple of 1/8th or 1/20th of 1%. The difference between the highest and the lowest interest rate specified for a series of Bonds shall not exceed 2%. The maximum stated rate of interest on any Bond or on the Series 216 Notes shall not exceed the daily yield for the ten-year treasury bonds published by The Bond Buyer, in New York, New York, on the Monday next preceding the date of the public sale, plus 3%. The maximum stated rate of interest on the Series 217 Notes shall not exceed the daily yield for the ten-year treasury bonds published by The Bond Buyer, in New York, New York, on the Monday next preceding the date of the public sale, plus 4%. No bid for less than par value, plus accrued interest thereon from the Dated Date to the date of delivery, shall be considered, and no supplemental interest payments shall be authorized. Each bid must state (i) the total interest cost to the City during the life of the applicable series of Bonds or Notes on the basis of the bid, (ii) the premium, if any, offered by the bidder, (iii) the net interest cost to the City on the basis of the bid, and (iv) the true interest cost (as hereinafter defined) on the basis of such bid. Each bid shall be certified by the bidder to be correct, and the Governing Body of the City shall be entitled to rely on such certificate of correctness.

## Form and Submission of Bid; Good Faith Deposit

Facsimile Bids. Bids may be submitted via facsimile to 316-219-6269, Attn: Director of Finance. The City accepts no responsibility for inaccurate bids submitted by facsimile transmission or for the inability to access the facsimile number before the indicated sale time. Facsimile facilities are limited and bidders using them should plan to allow time to compensate. The deadline for facsimile bids is based on the time the transmission is printed through the facsimile facilities as opposed to the time the transmission is sent by the bidder. Bidders are advised to allow time for the transmission to be received.

Bids may be submitted through the PARITY Electronic Bid Submission System ("PARITY"). To the extent any instructions or directions set forth in PARITY conflict with the Official Notice of Sale, the terms of the Official Notice of Sale shall control. All bids must be received by the undersigned prior to 10:30 a.m., C.T. (the "Submittal Hour") on July 11, 2006 (the "Sale Date"), accompanied by the applicable good faith deposit described below, which may be submitted separately, provided such good faith deposit is received by the City

prior to the Submittal Hour on the Sale Date. The City shall not be responsible for any failure, misdirection or error in the means of transmission via PARITY. Bids submitted in accordance with this section and accepted by the City as provided below shall be binding obligations of the bidders. For further information about the electronic bidding services of

PARITY, potential bidders may contact i-Deal, LLC, 1359 Broadway, 2nd Floor, New York, NY 10010, (212) 849-5021.

**Good Faith Deposit.** Each bid for the Bonds shall be accompanied by a good faith deposit in an amount equal to 2% of the principal amount of the series of Bonds for which the bid is submitted (\$211,500 for the Series 786 Bonds and \$18,400 for the Series 786A Bonds), and each bid for the Notes shall be accompanied by a good faith deposit in an amount equal to 2% of the principal amount of the series of Notes for which the bid is submitted (\$1,089,100 for the Series 216 Notes and \$87,800 for the Series 217 Notes). The good faith deposit must be in the form of a certified or cashier's check drawn on a bank located within the United States and made payable to the order of the City, or in the form of a Financial Surety Bond payable to the order of the City and meeting the requirements set forth in the following paragraph. If a bid is accepted, such good faith deposit shall be deposited by the City until the bidder shall have complied with all of the terms and conditions of this Notice and of its bid. In the event a bidder whose bid is accepted shall default in the performance of any of the terms and conditions of this Notice or of its bid, said bidder's good faith deposit shall be retained by the City for liquidated damages. If a bid is accepted, but the City shall fail to deliver the applicable Bonds or Notes to the bidder in accordance with the terms and conditions hereof, said good faith deposit amount shall be returned to the bidder. No interest shall be paid upon the successful bidder's good faith deposit. Checks representing the good faith deposit accompanying the bids of the unsuccessful bidders shall be promptly returned.

**Financial Surety Bond.** If a Financial Surety Bond is used for the good faith deposit, it must be from Financial Security Assurance of Maryland Inc., New York, New York, an insurance company licensed to issue such surety bond in the State of Kansas and approved by the City. Such surety bond must be submitted to the Director of Finance prior to the time that bids for the purchase of the Bonds and Notes will be received. The Financial Surety Bond must identify each bidder whose good faith deposit is guaranteed by such Financial Surety Bond. If a series of Bonds or Notes is awarded to a bidder using a Financial Surety Bond, then that bidder is required to submit its good faith deposit to the City in the form of a certified or cashier's check or wire transfer as instructed by the Director of Finance not later than 2:00 p.m., C.T., on the next business day following the award of the applicable series of Bonds or Notes. If such check or wire transfer is not received by that time, the Financial Surety Bond will be drawn by the City to satisfy the good faith deposit requirement.

#### Awarding of Bonds and Notes

Each series of Bonds and Notes will be sold separately and each will be awarded to the responsible bidder offering to pay not less than the par amount of applicable series of Bonds or Notes and accrued interest thereon and specifying a rate or rates of interest that result in the lowest effective interest rate to the City. The effective interest rate to the City shall be the interest rate per annum determined on a per annum true interest cost ("TIC") basis by discounting the scheduled semi-annual debt service payments of the City on the applicable series of Bonds or Notes (based on such rate or rates of interest so bid), to the Dated Date of such Bonds or Notes (based on a 360-day year), compounded semi-annually and to the bid price, excluding accrued interest to the date of delivery. The City reserves the right to verify each bidder's calculation of TIC, and the award shall be made to the bidder whose proposal results in the lowest TIC calculated in accordance with the provisions of this Notice. If two or more identical bids for the lowest TIC are received, the Governing Body shall determine which bid, if any, shall be accepted, and such determination shall be final. The Governing Body reserves the right to reject any and/or all bids, and to waive any irregularities in any bid submitted.

#### Ratings

The City's outstanding general obligation bonds issued since 1975 have been rated by Moody's Investors Service, Inc. ("Moody's") and by Standard & Poor's, a division of the McGraw-Hill Companies ("S&P"). The most recent ratings given to the City's general obligation bonds (dated February 1, 2006) by such rating agencies were "Aa2" and "AA" respectively. The City's most recently issued general obligation notes (dated February 9, 2006) were rated "MIG1" by Moody's and "SP-1+" by S&P. The City has applied to both Moody's and S&P for ratings on the Bonds and Notes described herein.

## Bond Insurance

The City has not applied for any policy of municipal bond insurance with respect to the Bonds or Notes and will not pay the premium in connection with any policy of municipal bond insurance desired by the successful bidder. In the event a bidder desires to purchase and pay all costs associated with the issuance of a policy of municipal bond insurance in connection with any series of the Bonds or Notes, such intent must be specified on the bid and the bid must be accompanied by a commitment from the selected insurer specifying all terms and conditions to which the City will be required to agree in connection with the issuance of such insurance policy. Such commitment shall be delivered to the office of the Department of Finance, located on the Twelfth Floor of City Hall, 455 North Main, Wichita, Kansas 67202-1679. The Governing Body specifically reserves the right to reject any bid specifying municipal bond insurance, even though such bid may result in the lowest true interest cost to the City.

## CUSIP Identification Numbers

The CUSIP Service Bureau will be requested to assign CUSIP identification numbers to the Bonds and Notes, and such numbers shall be printed on the Bonds and Notes; however, neither the failure to assign any such number to or print any such number on any Bond or Note, nor any error with respect thereto, shall constitute cause for the failure or refusal by the successful bidder to accept delivery of and to make payment for the Bonds or Notes in accordance with the terms of this Notice and of its bid. All expenses in relation to the printing of the CUSIP numbers and the expenses of the CUSIP Service Bureau for the assignment thereof shall be the responsibility of and shall be paid for by the City.

## Delivery of and Payment for Bonds

A single Bond per maturity, duly printed or typewritten, executed and registered in conformity with the laws of the State of Kansas, shall be furnished and delivered at the expense of the City to the successful bidder of each series of Bonds on or about Thursday, August 10, 2006, by deposit of such Bonds with DTC. Payment for each series of Bonds shall be received by 12:00 noon, C.T., on the delivery date, in Federal Reserve funds immediately available for use by the City.

The successful bidder(s) shall be furnished with a certified Transcript of Proceedings evidencing the authorization and issuance of the applicable series of Bonds, and the usual closing proofs, which shall include a Certificate that there is no litigation pending or threatened at the time of the delivery of such series of Bonds affecting their validity and also regarding the completeness and accuracy of the Official Statement.

## Delivery of and Payment for Notes

A single Note, duly printed or typewritten, executed, registered and countersigned in conformity with the laws of the State of Kansas, shall be furnished and delivered at the expense of the City to the successful bidder(s) of each series of Notes on or about Thursday, August 10, 2006, by deposit of such Notes with DTC. Payment for each series of Notes shall be received by 12:00 noon, C.T., on the delivery date, in Federal Reserve funds immediately available for use by the City.

The successful bidder(s) shall be furnished with a certified Transcript of Proceedings evidencing the authorization and issuance of the applicable series of Notes, and the usual closing proofs, which shall include a Certificate that there is no litigation pending or threatened at the time of the delivery of such series of Notes affecting their validity and also regarding the completeness and accuracy of the Official Statement.

## Official Statement

The Governing Body of the City has authorized and directed the preparation of a Preliminary Official Statement in connection with the issuance of the Bonds and Notes, copies of which may be obtained from the City's Department of Finance. The Preliminary Official Statement is in a form "deemed final" by the Governing Body for the purpose of the Securities Exchange Commission's Rule 15c2-12(b)(1), but is subject to revision, amendment and completion in the final Official Statement. Authorization is hereby given to redistribute this Official Notice of Sale and the Preliminary Official Statement, but this entire Official Notice of Sale and the entire Preliminary Official Statement, and not portions thereof, must be redistributed.

By awarding the Bonds or Notes to any bidder or bidding syndicate submitting a proposal therefor, the Governing Body agrees that, no more than seven business days after the date of such award, it shall provide without cost to the senior managing underwriter of the syndicate to which such Bonds or Notes are awarded, a reasonable number of copies of the final Official Statement. The City designates the senior managing underwriter of any syndicate to which such Bonds or Notes are awarded as agent for purposes of distributing copies of the final Official Statement to each participating underwriter. Any bidder delivering a proposal with respect to the Bonds or Notes agrees thereby that if such proposal is accepted (i) it shall accept such designation, and (ii) it shall enter into a contractual relationship with all participating underwriters of the applicable series of Bonds or Notes for purposes of assuring the receipt by each such participating underwriter of the final Official Statement. Copies of the final Official Statement in excess of a reasonable number may be ordered by the successful bidder at its expense.

#### Continuing Disclosure

The City has adopted Ordinances establishing master undertakings to provide ongoing disclosure concerning the City in connection with its general obligation bonds and in connection with its general obligation notes for the benefit of owners of such bonds and notes, including the Bonds and Notes described herein, as required under Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12. The Ordinances are included as an Appendix to the Official Statement.

#### Authority, Purpose and Security

The Bonds and Notes shall be issued under the authority of and pursuant to the provisions of the Constitution and laws of the State of Kansas, including K.S.A. 10-101 et seq., as amended and supplemented, including specifically, with reference to the Notes, K.S.A. 10 123, as amended and supplemented. The Bonds and Notes shall be authorized by Ordinances to be adopted by the Governing Body. The Bonds and Notes and the interest thereon shall constitute general obligations of the City, and the full faith, credit and resources of the City will be pledged by the aforesaid Ordinances to the payment thereof. Reference is made to the City's Official Statement for a more extensive discussion of security for the Bonds and Notes.

**The Series 786 Bonds.** The proceeds of the Series 786 Bonds shall be used, together with special assessments which have been collected in cash and other available funds, for the purpose of permanently financing the costs of constructing various multiple capital improvements in the City, the costs of which have been charged as special assessments to real properties benefited by the improvements. The Series 786 Bonds and the interest thereon shall constitute general obligations of the City, and shall be payable as to both the principal of and the interest thereon from the collection of special assessment taxes which have been levied against benefited real properties in the City, over a 15-year period, and any part of said principal and interest not so paid, shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property located within the territorial limits of the City.

**The Series 786A Bonds.** The proceeds of the Series 786A Bonds shall be used, together with special assessments which have been collected in cash and other available funds, for the purpose of permanently financing the costs of constructing various multiple capital improvements in the City, the costs of which have been charged as special assessments to real properties benefited by the improvements. The Series 786A Bonds and the interest thereon shall constitute general obligations of the City, and shall be payable as to both the principal of and the interest thereon from the collection of special assessment taxes which have been levied against benefited real properties in the City, over a 20-year period, and any part of said principal and interest not so paid, shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property located within the territorial limits of the City.

**The Series 216 Notes.** The proceeds of the Series 216 Notes shall be used for the purpose of providing funds to renew a portion of the principal amount of the City's General Obligation Renewal and Improvement Temporary Notes, Series 215 (the "Series 215 Notes"), previously issued by the City for the purpose of providing temporary financing for multiple capital improvements in the City and for the purpose of providing temporary financing for acquiring, constructing and installing certain newly undertaken multiple capital projects within the City. The principal of and the interest on the Series 216 Notes shall be paid from moneys collected from special assessments to be levied against real properties in the City benefited by certain of the capital improvements upon the completion thereof, from the proceeds of general obligation bonds which will be subsequently issued by the City for such purpose, and from current revenues of the City which are available for such purpose, or all or part

of the Series 216 Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose pending completion of some or all of the capital improvements.

The Series 217 Notes. The proceeds of the Series 217 Notes shall be used for the purpose of providing funds to renew a portion of the principal amount of the Series 215 Notes previously issued by the City for the purpose of providing temporary financing for multiple capital improvements in the City. The principal of and the interest on the Series 217 Notes shall be paid from the proceeds of general obligation bonds which will be subsequently issued by the City for such purpose and from current revenues of the City which are available for such purpose, or all or part of the Series 217 Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose pending completion of some or all of the capital improvements. It is further anticipated that the Series 217 Notes will be payable from tax increment revenues generated from a certain tax increment district in the City.

#### Legal Opinion

All matters relating to the authorization and issuance of the Bonds and the Notes are subject to the approving opinion of Kutak Rock LLP., Kansas City, Missouri, Bond Counsel. Bond Counsel's opinion shall be furnished without expense to the successful bidder(s) concurrently with delivery of the Bonds and the Notes. All fees and expenses of Bond Counsel shall be paid by the City.

#### Tax Exemption

Exemption from State Tax. The interest on the Bonds and the Notes is excludable from the computation of Kansas adjusted gross income and the Bonds and the Notes are exempt from the tax imposed by Kansas counties, cities or townships upon the gross earnings derived from money, notes and other evidence of debt.

Exemption from Federal Tax - Bonds and Series 216 Notes. - In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, interest on the Bonds and the Series 216 Notes is excluded from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax. The opinion described in the preceding sentence assumes the accuracy of certain representations and compliance by the City with covenants designed to satisfy the requirements of the Code that must be met subsequent to the issuance of the Bonds and the Series 216 Notes. Failure to comply with such requirements could cause interest on the Bonds or the Series 216 Notes to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds or the Series 216 Notes, as applicable. The City has covenanted to comply with such requirements. Bond Counsel has expressed no opinion regarding other federal tax consequences arising with respect to the Bonds or the Series 216 Notes.

Notwithstanding Bond Counsel's opinion that interest on the Bonds and the Series 216 Notes is not a specific preference item for purposes of the federal alternative minimum tax, such interest will be included in adjusted current earnings of certain corporations, and such corporations are required to include in the calculation of alternative minimum taxable income 75% of the excess of such corporations' adjusted current earnings over their alternative minimum taxable income (determined without regard to such adjustment and prior to reduction for certain net operating losses).

The accrual or receipt of interest on the Bonds and the Series 216 Notes may otherwise affect the federal income tax liability of the owners of the Bonds and the Series 216 Notes. The extent of these other tax consequences will depend upon such owner's particular tax status and other items of income or deduction. Bond Counsel has expressed no opinion regarding any such consequences. Purchasers of the Bonds and the Series 216 Notes, particularly purchasers that are corporations (including S corporations and foreign corporations operating branches in the United States), property or casualty insurance companies, banks, thrifts or other financial institutions, certain recipients of social security or railroad retirement benefits, taxpayers otherwise entitled to claim the earned income credit, or taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations, should consult their tax advisors as to the tax consequences of purchasing or owning the Bonds or the Series 216 Notes.

Not Exempt from Federal Tax - Series 217 Notes. In the opinion of Kutak Rock, LLP, Bond Counsel, interest on the Series 217 Notes is subject to federal income taxation, and Bond Counsel expresses no opinion regarding other federal tax consequences arising with respect to the Series 217 Notes.

Not Bank-Qualified Obligations. The City has not designated the Bonds or the Notes as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code relating to the ability of financial institutions to

deduct from income for federal income tax purposes, interest expense that is allocable to carrying and acquiring tax-exempt obligations.

Original Purchaser's Certificate

Bond Counsel will prepare and furnish for execution to the successful bidder for each series of Bonds and Notes, an Original Purchaser's Certificate which states that at least 10% of each maturity for such Bonds or Notes has been sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at initial reoffering prices to the public as shall be provided by the Original Purchaser thereof.

Assessed Valuation; Bonded Indebtedness

The City's equalized assessed tangible valuation for computation of bonded debt limitations is \$3,037,717,928. The total outstanding general obligation bonded indebtedness of the City as of August 1, 2006, including the Bonds and Notes is \$573,258,760. The City's General Obligation Renewal and Improvement Temporary Notes, Series 215, outstanding in the principal amount of \$56,370,000 will be retired on August 10, 2006, from a portion of the proceeds of the Bonds and the Notes and other available funds of the City.

Additional Information

Additional information regarding the Bonds and Notes maybe obtained from the Department of Finance, Twelfth Floor, City Hall, 455 North Main, Wichita, Kansas 67202-1679 (Ms. Catherine Gilley, Debt Coordinator, Telephone 316/268-4143, E-mail: [cgilley@wichita.gov](mailto:cgilley@wichita.gov)). To obtain a Preliminary Official Statement visit [www.onlinemuni.com](http://www.onlinemuni.com).

BY ORDER OF THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, ON JUNE 20, 2006.

By: /s/ Carlos Mayans, Mayor

Carlos Mayans, Mayor

(Seal)

ATTEST:

By: /s/ Karen Sublett, City Clerk  
Karen Sublett, City Clerk

## **Agenda Item No. 19.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0651

TO: Mayor and City Council

SUBJECT: HOME CHDO Housing Development Funding Agreements  
(Districts I, III, IV,V, VI)

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the contracts.

Background: On March 21, 2006, the City Council approved an allocation of \$265,584 in HOME funding for housing development projects to be carried out by three of the City's designated Community Housing Development Organizations (CHDO's), as part of the Consolidated Plan funding process. The following allocations were approved:

- \$148,835 for Mennonite Housing Rehabilitation Services, Inc. (MHRS)
- \$29,917 for Community Housing Services of Wichita/Sedgwick County, Inc. (CHS)
- \$86,832 for Power CDC.

The City Council also approved an allocation of \$179,448 for the CHDO Boarded-up House Program. This program provides a means for CHDO's to obtain zero-interest, forgivable loans to address blighted housing in the City's Local Investment Areas (LIA's). City-approved CHDO's with experience in single-family housing development are eligible for participation in the program, and may utilize the funding to acquire boarded-up or otherwise blighted structures for the purpose of rehabilitation or demolition and construction of a new home.

CHS is in the process of developing three new single-family homes with prior-year HOME CHDO funding. The funding was provided to CHS to purchase homes or sites and rehabilitate or construct new single-family housing in the City's Northeast or North Central Local Investment Area. Thusfar, CHS has utilized the funding to subsidize construction of two homes, and to acquire a site for a third home. The funding agreement expires June 30, 2006. CHS has requested extension of the agreement in order to complete the projects. Approximately \$31,000 in HOME CHDO set-aside funding remains.

Five homes are currently under development and nearing completion, with prior-year Boarded-up House Program funding. The funding was approved during the 2004-2005 Consolidated Plan funding process, and the funding agreement expires June 30, 2006. Staff is requesting extension of this funding agreement in order to provide for coverage of final expenses to be submitted for these projects. Approximately \$13,775 in HOME funding remains.

Staff has identified a total of \$10,898.79 in 2004 HOME CHDO set-aside funding remaining from a completed CHDO development project. Since the funding is insufficient to complete an additional project, and may only be used to fund CHDO-developed projects, staff is requesting re-allocation of this funding to the 2006-2007 CHDO funding allocations, on a pro rata basis based on 2006 allocations, in order to supplement funding levels.



Analysis: In accordance with funding allocations previously approved by the City Council and adding the proration of prior-year unspent funding, Housing and Community Services is requesting approval for the following HOME funding agreements:

- \$154,942.68 for MHRS, in order to partially finance the development of at least five new homes in the City's Local Investment Areas;
- \$31,144.20 for CHS, in order to partially finance the construction of at least one new home or rehabilitation of one home in one of the six local investment areas;
- \$90,395.91 for Power CDC to partially finance the development of at least three new homes in the City's Northeast Local Investment Area;
- \$179,448 for the 2004-2005 Boarded-up House Program. MHRS, CHS, Power CDC and Wichita Indochinese Center, Inc., will be parties to the agreement;
- Extension of the 2004 CHS HOME funding agreement to December 31, 2007, and the 2004 Boarded-up House funding agreement to June 30, 2007, in order to expend remaining funding and to allow sufficient time to complete projects.

All homes constructed or rehabilitated with HOME funding will be sold to income-eligible, owner-occupant families receiving down payment and closing costs assistance through the City's HOMEownership 80 Program.

Financial Considerations: Total project cost of the three new CHDO housing development projects and the Boarded-up House Program is estimated to be \$1,400,000. HOME funding may be utilized to cover the costs involved in acquisition, rehabilitation and/or construction, site improvements, developer fees, and when necessary, demolition, for 14 homes. Each CHDO will leverage HOME funds with private sector construction loans or other financing. CHDO's participating in the Boarded-up House Program will also leverage HOME funds with private sector construction loans.

Goal Impact: Projects to be funded under the subject HOME contracts will contribute to the goal of Economic Vitality and Affordable Living.

Legal Considerations: All funding agreements referenced herein, have been approved as to form by the City Law Department. HOME regulations require completion of HOME-eligible projects on sites purchased with HOME funds. With the exception of the funding allocated for the Boarded-up House Program, the CHDO project funding is provided as part of the City's mandatory 15% set-aside for eligible CHDO's.

Recommendations/Actions: It is recommended that the City Council approve the HOME funding agreements for MHRS, CHS and Power CDC, the new funding agreement for the Boarded-up House Program, the contract amendments for the CHS and Boarded-up House prior-year funding agreements, and authorize the necessary signatures.

Attachments: Exhibit B (Performance Criteria and Contract Objectives) and Exhibit C (Budget) for each CHDO funding agreement.

GRANT AGREEMENT between THE CITY OF WICHITA HOUSING AND COMMUNITY SERVICES  
DEPARTMENT PARTICIPATING JURISDICTION  
and Community Housing Services of Wichita/Sedgwick County, Inc., A Community Housing Development  
Organization

HOME Investment Partnerships  
Program

2006 CHDO Set-Aside Funding

Housing and Community Services Department  
City of Wichita  
332 N. Riverview  
Wichita, Kansas 67203  
Phone (316) 462-3700  
Fax (316) 462-3719

## PERFORMANCE CRITERIA AND CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and CHS, Inc., hereinafter referred to as the "City" and "Developer" (or CHS) respectively, that execution of this contract obligates the Developer to the following performance requirements.

In return for the \$31,144.20 remuneration stated herein, the Developer agrees to undertake an affordable housing program, which will result in the acquisition of sites and construction of at least one new single-family homes to be located within any of the City's Local Investment Areas, as identified in the Consolidated Plan. For purposes of this contract, the Orchard Breeze Local Investment Area includes the area of this LIA between Douglas and Second Streets. To be eligible for this program properties acquired under this agreement must be vacant residential lots or sites, or residential lots with vacant, blighted residential structures.

Housing constructed under this agreement must be re-sold to HOME-compliant owner-occupant buyers, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Developer represents and agrees that its purchase of the properties and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

The Developer represents and agrees that it will remain the owner of the properties until it reaches agreement with a prospective buyer(s) of the properties and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Developer to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

### I. Project Requirements

A. Project must conform to regulations under 24 CFR Part 92.

B. 24 CFR Part 92, Subpart F specifically describes maximum HOME contribution per unit, property standards, tenant and participation rents and protections, and period of affordability based on the level of HOME fund contributions.

Specific references to HOME Project Requirements can be found as follows:

24 CFR Part 92

92.250, Maximum Per Unit Subsidy,

92.251, Property Standards, Compliance with Quality Standards in 24 CFR 982.4018,

92.254, Qualification as Affordable Housing, Homeownership,

92.257, Religious Organizations.

C. The Developer, a non-profit Community Housing Development Organization (CHDO) is receiving this grant funding as CHDO Set-Aside Funding, under HOME regulations, as specified in 24 CFR 92.300.

## II. Program Content

A. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes, purchase and re-habilitation of existing homes, and the developer fees earned in connection with completion of each unit.

Funding under this agreement will be provided in the form of 0% loans to complete projects on a case-by-case basis, as approved by the Department of Housing and Community Services.

## III. Administration

The CHS Executive Director will supervise operations and administration on a day-to-day basis. The CHS Board of Directors is ultimately responsible for program administration.

A. Funding: It is mutually agreed by and between the City and the Developer that the total HOME funds available to CHS for this project will be \$31,144.20, in the form of a forgivable development subsidy loan, to be used as set forth in the sections entitled Budget and Method of Payment.

B. Budget: The City shall pay the Developer as hereinafter set out; the maximum of \$31,144.20 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Developer in connection with each completed project. The developer fee will be pre-determined at the onset of the construction of each home, and will be paid upon the closing of the sale of each individual home. Proceeds from the sale of homes, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of development subsidy loans provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed projects and extended grant authority as a result of repayments generated by the project. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition, Demolition, Construction Expenses,  
Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee.)

\$31,144.20

TOTAL

\$31,144.20

C. Method of Payment: The Developer agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.

1. The City and CHS also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than \$10,000, other than those within the scope of this agreement must be approved by the City Council.

2. CHS will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Developer's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

3. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Developer within three weeks of the Friday on which the draw request was received.

#### D. Records and Reports

1. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.

2. The Developer will provide, for the year ending June 30 of each year, beginning June 30, 2007, an annual report of the HOME funded portion of the program. It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developers fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita July 10 of each applicable year.

3. Additionally, a narrative or other description of progress may be provided.

4. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

#### V. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

A. The Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with 24 CFR 92.254. Said restrictions and covenants will be in force for the period of affordability, which will expire 20 years following the completion of each unit, as defined in 24 CFR 92.2, depending on the amount of funds invested in the project. Deed restrictions/covenants shall remain in force without regard to the repayment of HOME funds or transfer of ownership.

B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.

C. Provide Certificates regarding Debarment and Suspension, as well as other file documentation requested by the City in order to comply with HOME regulations.

D. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing Services Department.

E. Provide evidence that ownership interest in the property vests in CHS, Inc.. (Copy of Deed, and/or Title Insurance Binder/Policy)

F. The Developer will notify the City of any properties it contracts to purchase, in order for the City to complete the appropriate environmental reviews prior to closing of the purchase.

G. The Developer will obtain any and all permits required by the City prior to undertaking construction.

H. The Developer will obtain the approval of the City of Wichita Housing Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.

I. The Developer shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development.

J. Prior to executing any contracts for sale of the assisted properties the Developer must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

#### V. Other Program Requirements

A. The Developer shall comply with the applicable provisions of 24 CFR 84.21, Standards for financial Management Systems, requiring independent financial and programmatic audits not less frequently than every two years. In addition to the financial and programmatic audit, the audit shall indicate whether the organization has complied with laws and regulations that may have a material effect on its financial statements and on each Federal assistance program reviewed.

B. Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion and throughout construction to verify compliance. (24 CFR 92.251 of the HOME regulation.)

C. The Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Action Plan must be available for public inspection in the Developer's office. The plan must contain specific steps and actions that the Developer will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

1. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.
2. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.
3. Send notices of housing availability (using form provided by the City) to agencies from a list provided by the City.
4. Send a copy of the materials sent to community contacts announcing housing availability to the City of Wichita Housing Services Department.
5. No later than 90 days prior to engaging in marketing activities, the Developer should notify the City of Wichita Housing Services Department, either in writing or by telephone of the dates on which the Developer plans to: (1) begin initial marketing activities; (2) accept purchase contracts; and (3) start initial sales.
6. The Developer must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

D. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

E. The Developer shall provide a project sign throughout the project listing the use of federal Home Investment Partnerships Program funds and the participation of the City of Wichita in the project. The sign shall be professionally constructed and be no smaller than 4 feet by 4 feet, printed on one side, and contain language similar to the following:

Redevelopment Project is financed in part by the City of Wichita and HUD using Home Investment Partnerships Program funds, in partnership with Community Housing Services of Wichita/Sedgwick County, Inc.

The language to be used on the sign shall be submitted to the City for prior review and approval before the sign is constructed. The Developer is responsible to obtain all necessary permits to erect the sign.

F. The Developer shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.

G. Site Improvements: The City will require a Developer to undertake site improvements upon completion of construction. Site improvements include, but are not limited to, sodding of front yards, and 4' chain-link fencing. Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.

H. Warranty: The Developer must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.

## VI. Program Evaluation

The City shall evaluate this project based on the objectives stated in this Exhibit. Failure by the Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Developer on a pro rata basis with level of service. The Developer's records are subject to review by the City to ensure the accuracy and validity of information reported in monthly progress reports.

### Exhibit C

#### BUDGET

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee.)

\$31,144.20

TOTAL

\$31,144.20

AMENDMENT TO GRANT AGREEMENT Between THE CITY OF WICHITA HOUSING AND COMMUNITY SERVICES DEPARTMENT (Formerly known as the City of Wichita Housing Services Department), a PARTICIPATING JURISDICTION and Mennonite Housing Rehabilitation Services, Inc., and Power CDC, Inc. and Community Housing Services of Wichita/Sedgwick County, Inc.; and Wichita Indochinese Center, Inc.

#### COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS

HOME Investment Partnerships CHDO Set-Aside Project Funding

2004-2005 CHDO Set-Aside Funding

HOME Investment Partnerships Program

“Boarded-up House Program”

City of Wichita  
Housing and Community Services Department  
332 N. Riverview  
Wichita, KS 67203  
Phone (316) 462-3700  
Fax (316) 462-3719

### Exhibit B-1

#### PERFORMANCE CRITERIA AND CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and the Agencies, that execution of this contract obligates the Agencies to the following performance requirements.

In return for the \$200,000 remuneration stated herein, the Agencies agree to undertake an affordable housing program, which will result in the rehabilitation or construction of a minimum of six single-family homes within any one of the City's identified Local Investment Areas, as specified in the Consolidated Plan.

Housing constructed under this agreement must be re-sold to HOME-compliant owner-occupant buyers, who must be eligible for assistance under one of the City's HOME-funded homeownership programs. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) Each Agency represents and agrees that its purchase of the properties and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation. The City will hold the long-term deed restrictions for applicable properties, in the form of loans provided for the purpose of down/payment closing costs assistance for end buyers, and will certify the income of the end buyers.

Each of the Agencies represents and agrees that it will remain the owner of the property on which a project is undertaken by it under this agreement, until an agreement is reached with a prospective buyer(s) of the property and, by mutual agreement, the applicable Agency transfers title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by a respective Agency to prepare the property for ownership that were not collectible through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Agency.

#### I. Project Requirements

D. Project must conform to regulations under 24 CFR Part 92.

B. 24 CFR Part 92, Subpart F specifically describes maximum HOME contribution per unit, property standards, tenant and participation rents and protections, and period of affordability based on the level of HOME fund contributions.

Specific references to HOME Project Requirements can be found as follows:

24 CFR Part 92

92.250, Maximum Per Unit Subsidy,

92.251, Property Standards, Compliance with Quality Standards in 24 CFR 982.4018,

92.252, Qualification as Affordable Housing, Rental Housing,

92.253, Tenant and Participant Protections,

92.254, Qualification as Affordable Housing, Homeownership,

92.257, Religious Organizations.

C. The Agencies, non-profit Community Housing Development Organizations (CHDOs) are receiving this grant funding as CHDO Set-Aside Funding, under HOME regulations, as specified in section 92.300 of the HOME rule.

#### III. Program Content/Eligible Properties

C. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, purchase and re-habilitation of existing single-family homes, and the developer fees earned in connection with completion of each unit.

The purpose of the program is to provide a means for the Agencies to construct single-family homes. The Agencies will be able to obtain 0% loans to complete projects on a case-by-case basis, as approved by the Department of Housing Services.



### III. Administration

Each Agency's executive director/president/C.E.O. will supervise operations and administration on a day-to-day basis for projects undertaken by each Agency. The Agencies' Boards of Directors are ultimately responsible for program administration.

A. Funding: It is mutually agreed by and between the City and the Agencies that the total HOME funds available to the Agencies for this project will be \$200,000, to be used as set forth in the sections entitled Budget and Method of Payment. The Agencies understand and agree that the ability to undertake projects as outlined herein is subject to funding availability under this contract.

B. Budget: The City shall pay the Agencies as hereinafter set out; the maximum of \$200,000 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Agencies in connection with each completed project. The developer fee will be pre-determined at the onset of the construction or rehabilitation of each home, and will be paid upon the closing of the sale of each individual home. Proceeds from the sale of homes will be repaid to the City, in the form of a payoff of the development subsidy loan. Contract payments over and above the original budgeted amount are contingent upon the sale of completed projects and extended grant authority as a result of repayments generated by the project. Funding shall be originally budgeted as follows:

Contractual Expenses (Acquisition, Demolition, Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing Services, Site Improvements, 10% Developer Fee)	\$200,000
TOTAL	\$200,000

C. Method of Payment: The Agencies agree that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.

1. The City and the Agencies also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than \$10,000, other than those within the scope of this must be approved by the City Council.

2. The Agencies will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Agencies' files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

4. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each single-family home. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Agencies within three weeks of the Friday on which the draw request was received.

#### D. Records and Reports

1. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.

2. The Agencies undertaking projects under this agreement will provide, for the year ending June 30 of each year, beginning June 30, 2003, an annual report of the HOME funded portion of the program. It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developers fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita July 15 of each applicable year.

3. Additionally, a narrative or other description of progress may be provided.

4. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

#### IV. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to acquisition of a property, or commencement of construction on the project and related improvements:

A. The Agencies agree to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with Part 92.254. Said restrictions and covenants will be in force for the period of affordability, which will expire 20 years following the completion of each unit, as defined in CFR 92.2, depending on the amount of funds invested in the project. Deed restrictions/covenants shall remain in force without regard to the repayment of HOME funds or transfer of ownership. Said document will be filed of record by the City. (This is in reference to the development subsidy loan agreements.)

B. Provide a detailed overall project/unit budget, including, but not limited to a Sources and Uses of Funds Statement.

C. Provide Certificates regarding Debarment and Suspension, as well as other file documentation requested by the City in order to comply with HOME regulations.

H. Submit final construction plans, specifications and a budget for each project for approval by the Housing Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Project work may not begin until the Housing Services Department has issued a Notice to Proceed.

E. Provide evidence that ownership interest in each property on which a project is to be constructed has been transferred to the respective Agency. (Copy of Deed, Title Insurance Binder/Policy, Purchase Contract, and HUD I settlement statement.)

J. Each Agency will notify the City of any properties it contracts to purchase, in order for the City to complete the appropriate environmental reviews prior to closing of the purchase.

K. The Agencies will obtain any and all permits required by the City prior to undertaking construction.

L. The Agencies will obtain the approval of the City of Wichita Housing Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.

M. The Agencies shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Agencies shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The Agencies shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development.

N. Prior to executing any contracts for sale of the assisted properties, the Agencies must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 92.203.

V. Other Program Requirements

A. The Agencies shall comply with the applicable provisions of OMB Circular A-110, Attachment F, Standards for financial Management Systems, requiring independent financial and programmatic audits not less frequently than every two years. In addition to the financial and programmatic audit, the audit shall indicate whether the organization has complied with laws and regulations that may have a material effect on its financial statements and on The Federal assistance program reviewed. (24 C.F.R. 84.21)

B. Housing constructed or rehabilitated with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion. New construction must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion to verify compliance. (Section 92.251 of the HOME rule.)

C. The Agencies agree to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Action Plan must be available for public inspection in each Agency's office. The plan must contain specific steps and actions that each Agency will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in each Agency's Affirmative Marketing Plan include:

7. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

8. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction period.

9. Send a copy of the materials sent to community contacts announcing housing availability to the City of Wichita Department of Housing Services.

10. No later than 90 days prior to engaging in marketing activities, the Agencies should notify the City of Wichita Department of Housing Services, either in writing or by telephone of the dates on which the applicable Agency plans to: (1) begin initial marketing activities; (2) accept purchase contracts; and (3) start initial sales.

11. The Agencies must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of a project undertaken under this agreement.

D. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

F. The Agencies shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed/rehabilitated home has been sold to a HOME-eligible buyer.

G. Site Improvements: The City will require Agencies to undertake site improvements upon completion of construction. Site improvements may include, but are not limited to, sodding of front yards, and 4' chain-link fencing. Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.

H. Warranty: The Agencies must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.

#### V. Program Evaluation

The City shall evaluate this project based on the objectives stated herein. Failure by any Agency to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the respective Agency on a pro rata basis with level of service. The Agencies' records are subject to review by the City to ensure the accuracy and validity of information reported in monthly progress reports.

Exhibit C-1

#### BUDGET

Contractual Expenses (Acquisition, Demolition, Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing Services, Site Improvements, 10% Developer Fee)	\$50,000
TOTAL	\$50,000

#### AMENDMENT TO GRANT AGREEMENT

Between

THE CITY OF WICHITA  
HOUSING AND COMMUNITY SERVICES DEPARTMENT  
(Formerly known as the City of Wichita Housing Services Department)

A  
PARTICIPATING JURISDICTION

And  
Community Housing Services of Wichita/Sedgwick County, Inc.

A  
COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO)

HOME Investment Partnerships CHDO Set-Aside Project Funding

2004 CHDO Set-Aside Funding

City of Wichita  
Housing and Community Services Department  
332 N. Riverview  
Wichita, KS 67203  
Phone (316) 462-3700  
Fax (316) 462-3719

Exhibit B-1

PERFORMANCE CRITERIA  
AND  
CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and the Agency, that execution of this contract obligates the Agency to the following performance requirements.

In return for the \$50,000 remuneration stated herein, the Agency agrees to undertake an affordable housing program, which will result in the rehabilitation or construction of a minimum of 1 single-family home within any one of the City's identified Local Investment Areas, as specified in the Consolidated Plan.

Housing constructed under this agreement must be re-sold to HOME-compliant owner-occupant buyers, who must be eligible for assistance under one of the City's HOME-funded homeownership programs. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Agency represents and agrees that its purchase of the properties and their other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation. The City will hold the long-term deed restrictions for applicable properties, in the form of loans provided for the purpose of down/payment closing costs assistance for end buyers, and will certify the income of the end buyers.

The Agency represents and agrees that it will remain the owner of the property on which a project is undertaken under this agreement, until an agreement is reached with a prospective buyer(s) of the property and, by mutual agreement, the applicable Agency transfers title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Agency to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Agency.

I. Project Requirements

E. Project must conform to regulations under 24 CFR Part 92.

B. 24 CFR Part 92, Subpart F specifically describes maximum HOME contribution per unit, property standards, tenant and participation rents and protections, and period of affordability based on the level of HOME fund contributions.

Specific references to HOME Project Requirements can be found as follows:

24 CFR Part 92  
92.250, Maximum Per Unit Subsidy,  
92.251, Property Standards, Compliance with Quality Standards in 24 CFR 982.4018,  
92.252, Qualification as Affordable Housing, Rental Housing,  
92.253, Tenant and Participant Protections,  
92.254, Qualification as Affordable Housing, Homeownership,

## 92.257, Religious Organizations.

C. The Agency, a non-profit Community Housing Development Organization (CHDO) is receiving this grant funding as CHDO Set-Aside Funding, under HOME regulations, as specified in section 92.300 of the HOME rule.

### IV. Program Content/Eligible Properties

D. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, purchase and re-habilitation of existing single-family homes, and the developer fees earned in connection with completion of each unit.

The purpose of the program is to provide a means for the Agency to construct single-family homes. The agency will be able to obtain 0% loans to complete projects on a case-by-case basis, as approved by the Department of Housing Services.

### III. Administration

The Agency's respective directors will supervise operations and administration on a day-to-day basis. The Agency's Board of Directors is ultimately responsible for program administration.

A. Funding: It is mutually agreed by and between the City and the Agency that the total HOME funds available to the Agency for this project will be \$50,000, to be used as set forth in the sections entitled Budget and Method of Payment. The Agency understands and agrees that the ability to undertake projects as outlined herein is subject to funding availability under this contract.

B. Budget: The City shall pay the Agency as hereinafter set out; the maximum of \$50,000 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Agency in connection with each completed project. The developer fee will be pre-determined at the onset of the construction or rehabilitation of each home, and will be paid upon the closing of the sale of each individual home. Proceeds from the sale of homes will be repaid to the City, in the form of a payoff of the development subsidy loan. Contract payments over and above the original budgeted amount are contingent upon the sale of completed projects and extended grant authority as a result of repayments generated by the project. Funding shall be originally budgeted as follows:

Contractual Expenses (Acquisition, Demolition, Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing Services, Site Improvements, 10% Developer Fee)	\$50,000
TOTAL	\$50,000

C. Method of Payment: The Agency agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.

1. The City and the Agency also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than \$10,000, other than those within the scope of this must be approved by the City Council.

2. The Agency will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Agency's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

5. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each single-family home. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Agency within three weeks of the Friday on which the draw request was received.

#### D. Records and Reports

1. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.

2. The Agency undertaking projects under this agreement will provide, for the year ending June 30 of each year, beginning June 30, 2003, an annual report of the HOME funded portion of the program. It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developers fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita July 15 of each applicable year.

3. Additionally, a narrative or other description of progress may be provided.

4. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

#### IV. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to acquisition of a property, or commencement of construction on the project and related improvements:

B. The Agency agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with Part 92.254. Said restrictions and covenants will be in force for the period of affordability, which will expire 20 years following the completion of each unit, as defined in CFR 92.2, depending on the amount of funds invested in the project. Deed restrictions/covenants shall remain in force without regard to the repayment of HOME funds or transfer of ownership. Said document will be filed of record by the City. (This is in reference to the development subsidy loan agreements.)

B. Provide a detailed overall project/unit budget, including, but not limited to a Sources and Uses of Funds Statement.

C. Provide Certificates regarding Debarment and Suspension, as well as other file documentation requested by the City in order to comply with HOME regulations.

I. Submit final construction plans, specifications and a budget for each project for approval by the Housing Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Project work may not begin until the Housing Services Department has issued a Notice to Proceed.

E. Provide evidence that ownership interest in each property on which a project is to be constructed has been transferred to the Agency. (Copy of Deed, Title Insurance Binder/Policy, Purchase Contract, and HUD I settlement statement.)

O. The Agency will notify the City of any properties it contracts to purchase, in order for the City to complete the appropriate environmental reviews prior to closing of the purchase.

P. The Agency will obtain any and all permits required by the City prior to undertaking construction.

Q. The Agency will obtain the approval of the City of Wichita Housing Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.

R. The Agency shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Agency shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The Agency shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development.

S. Prior to executing any contracts for sale of the assisted properties, the Agency must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 92.203.

#### V. Other Program Requirements

A. The Agency shall comply with the applicable provisions of OMB Circular A-110, Attachment F, Standards for financial Management Systems, requiring independent financial and programmatic audits not less frequently than every two years. In addition to the financial and programmatic audit, the audit shall indicate whether the organization has complied with laws and regulations that may have a material effect on its financial statements and on The Federal assistance program reviewed. (24 C.F.R. 84.21)

D. Housing constructed or rehabilitated with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion. New construction must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion to verify compliance. (Section 92.251 of the HOME rule.)

E. The Agency agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Action Plan must be available for public inspection in the Agency' offices. The plan must contain specific steps and actions that the Agency will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Agency' Affirmative Marketing Plan include:

12. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.



13. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction period.

14. Send a copy of the materials sent to community contacts announcing housing availability to the City of Wichita Department of Housing Services.

15. No later than 90 days prior to engaging in marketing activities, the Agency should notify the City of Wichita Department of Housing Services, either in writing or by telephone of the dates on which the Agency plans to: (1) begin initial marketing activities; (2) accepts purchase contracts; and (3) start initial sales.

16. The Agency must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of a project undertaken under this agreement.

D. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

I. The Agency shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed/rehabilitated home has been sold to a HOME-eligible buyer.

J. Site Improvements: The City will require an agency to undertake site improvements upon completion of construction. Site improvements may include, but are not limited to, sodding of front yards, and 4' chain-link fencing. Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.

K. Warranty: The Agency must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.

#### V. Program Evaluation

The City shall evaluate this project based on the objectives stated herein. Failure by any Agency to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the respective Agency on a pro rata basis with level of service. The Agency' records are subject to review by the City to ensure the accuracy and validity of information reported in monthly progress reports.

Exhibit C-1

#### BUDGET

Contractual Expenses (Acquisition, Demolition, Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing Services, Site Improvements, 10% Developer Fee)		\$50,000
TOTAL		\$50,000

## GRANT AGREEMENT

Between

THE CITY OF WICHITA  
HOUSING AND COMMUNITY SERVICES DEPARTMENT

A  
PARTICIPATING JURISDICTION

And

Mennonite Housing Rehabilitation Services, Inc.

and

POWER CDC, Inc.

and

Community Housing Services of Wichita/Sedgwick County, Inc.

and

Wichita Indochinese Center, Inc.

## COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS

Program Year 2006-2007

HOME Investment Partnerships  
Program

"Boarded-Up HOME Program"

Housing and Community Services Department  
City of Wichita  
332 N. Riverview  
Wichita, Kansas 67203  
Phone (316) 462-3734  
Fax (316) 462-3719

Exhibit B

## PERFORMANCE CRITERIA AND CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and the Agencies, that execution of this contract obligates the Agencies to the following performance requirements.

In return for their respective portions of the \$179,448 remuneration stated herein, the Agencies agree to undertake an affordable housing program, which will result in the construction and/or purchase/rehabilitation of not more than 11 single family homes on residential lots located in any of the City's Local Investment Areas, as defined in the City's Consolidated Plan and Neighborhood Revitalization Plan.

Housing contracted under this agreement must be re-sold to HOME-compliant owner-occupant buyers, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Agencies represent and agree that their purchase of the properties and their other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

Each Agency represents and agrees that it will remain the owner of the property on which a project is undertaken by it under this agreement, until an agreement is reached with a prospective buyer(s) of the property and, by mutual agreement, the applicable Agency transfers title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Agencies to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Agencies.

#### I. Project Requirements

F. Project must conform to regulations under 24 CFR Part 92.

B. 24 CFR Part 92, Subpart F specifically describes maximum HOME contribution per unit, property standards, tenant and participation rents and protections, and period of affordability based on the level of HOME fund contributions.

Specific references to HOME Project Requirements can be found as follows:

24 CFR Part 92

92.250, Maximum Per Unit Subsidy,

92.251, Property Standards, Compliance with Quality Standards in 24 CFR 982.4018,

92.252, Qualification as Affordable Housing, Rental Housing,

92.253, Tenant and Participant Protections,

92.254, Qualification as Affordable Housing, Homeownership,

92.257, Religious Organizations.

C. The Agencies, non-profit Community Housing Development Organizations (CHDO's) are receiving this grant funding as CHDO Set-Aside Funding, under HOME regulations, as specified in section 92.300 of the HOME rule.

#### V. Program Content/Eligible Properties

E. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of single family homes, purchase and re-habilitation of existing single-family homes, and the developer fees earned in connection with completion of each unit.

F. The purpose of the program is to provide a means for each Agency to address boarded-up or otherwise blighted, vacant homes or non-commercial structures in residential neighborhoods, located within one of the City's Local Investment Areas. Each agency will be able to apply for 0% loans to complete projects on a case-by-case basis. Priority will be given to boarded-up homes/structures located in the immediate neighborhood in which the applicable Agency is undertaking other rehabilitation projects. Consideration will also be given to homes referred by Neighborhood Associations that are identified in their annual plans as priority properties. In order to be eligible for program participation, the house or structure must be boarded-up, vacant or in an otherwise blighted condition. Properties donated or available for sale at/or below appraised value, and for which clear title can be obtained, will also be eligible. Special provisions will be made for abandoned properties for which title can be acquired.

#### III. Administration

The Agencies' respective directors will supervise operations and administration on a day-to-day basis. Each Agency's Board of Directors is ultimately responsible for program administration.

A. Funding: It is mutually agreed by and between the City and the Agencies that the total HOME funds available to the Agencies for this project will be \$179,448, to be used as set forth in the sections entitled Budget and Method of Payment. Funding under this agreement will be made available on a first-come, first-serve basis. The Agencies understand and agree that the ability to undertake projects as outlined herein is subject to funding availability under this contract.

B. Budget: The City shall pay the Agencies as hereinafter set out; the maximum of \$179,448 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to an Agency in connection with each completed project. The developer fee will be pre-determined at the onset of the construction of each home, and will be paid upon the closing of the sale of each individual home. Proceeds from the sale of homes will be repaid to the City, in the form of a payoff of the development subsidy loan. Contract payments over and above the original budgeted amount are contingent upon the sale of completed projects and extended grant authority as a result of program income generated by the project. Funding shall be originally budgeted as follows:

Contractual Expenses (Acquisition, Demolition, Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing Services, Site Improvements, 10% Developer Fee)	\$179,448
TOTAL	\$179,448

C. Method of Payment: The Agencies agree that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.

1. The City and each Agency also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than \$10,000, other than those within the scope of this must be approved by the City Council.

2. Each Agency will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Agencies' files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

6. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each single-family home. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Agencies within three weeks of the Friday on which the draw request was received.

#### D. Records and Reports

1. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.

2. Each Agency undertaking projects under this agreement will provide, for the year ending June 30 of each year, beginning June 30, 2003, an annual report of the HOME funded portion of the program. It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developers fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita July 5 of each applicable year.

3. Additionally, a narrative or other description of progress may be provided.

4. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

#### IV. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to acquisition of a property, or commencement of construction on the project and related improvements:

C. Each Agency agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with Part 92.254. Said restrictions and covenants will be in force for the period of affordability, which will expire 20 years following the completion of each unit, as defined in 24 CFR 92.2, depending on the amount of funds invested in the project. Deed restrictions/covenants shall remain in force without regard to the repayment of HOME funds or transfer of ownership. Said document will be filed of record by the City. (This is in reference to the development subsidy loan agreements.)

B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.

C. Provide Certificates regarding Debarment and Suspension, as well as other file documentation requested by the City in order to comply with HOME regulations.

J. Submit final construction plans, specifications and a budget for each project for approval by the Housing Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Project work may not begin until a Notice to Proceed has been issued by the Housing Services Department.

E. Provide evidence that ownership interest in each property on which a project is to be constructed has been transferred to the applicable Agency. (Copy of Deed, Title Insurance Binder/Policy, Purchase Contract, and HUD I settlement statement.)

T. Each Agency will notify the City of any properties it contracts to purchase, in order for the City to complete the appropriate environmental reviews prior to closing of the purchase.

U. Each Agency will obtain any and all permits required by the City prior to undertaking construction.

V. Each Agency will obtain the approval of the City of Wichita Housing Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.

W. An Agency shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Agency shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and

Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development.

X. Prior to executing any contracts for sale of the assisted properties, the Agencies must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 92.203.

V. Other Program Requirements

A. The Agencies shall comply with the applicable provisions of OMB Circular A-110, Attachment F, Standards for financial Management Systems, requiring independent financial and programmatic audits not less frequently than every two years. In addition to the financial and programmatic audit, the audit shall indicate whether the organization has complied with laws and regulations that may have a material effect on its financial statements and on each Federal assistance program reviewed. (24 C.F.R. 84.21)

F. Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion to verify compliance. (24 CFR 92.251; HOME Regulation)

G. The Agencies agree to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Action Plan must be available for public inspection in the Agencies' offices. The plan must contain specific steps and actions that the Agencies will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Agencies' Affirmative Marketing Plan include:

17. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

18. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction period.

19. Send a copy of the materials sent to community contacts announcing housing availability to the City of Wichita Department of Housing Services.

20. No later than 90 days prior to engaging in marketing activities, the Agencies should notify the City of Wichita Department of Housing Services, either in writing or by telephone of the dates on which the applicable Agencies plan to (1) begin initial marketing activities; (2) accept purchase contracts; and (3) start initial sales.

21. The Agencies must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of a project undertaken under this agreement.

D. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

L. The Agencies shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed/rehabilitated home has been sold to a HOME-eligible buyer.

M. Site Improvements: The City will require an Agency to undertake site improvements upon completion of construction. Site improvements include, but are not limited to, sodding of front yards, and 4' chain-link fencing. Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.

#### V. Program Evaluation

The City shall evaluate this project based on the objectives stated in Section I.,B. of this Exhibit. Failure by any Agency to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the respective Agencies on a pro rata basis with level of service. The Agencies' records are subject to review by the City to ensure the accuracy and validity of information reported in monthly progress reports.

#### Exhibit C

#### BUDGET

Contractual Expenses (Acquisition, Demolition, Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing Services, Site Improvements, 10% Developer Fee)	\$179,448
TOTAL	\$179,448

#### GRANT AGREEMENT

Between

THE CITY OF WICHITA  
HOUSING AND COMMUNITY SERVICES DEPARTMENT  
A  
PARTICIPATING JURISDICTION  
And

Mennonite Housing Rehabilitation Services, Inc.,

A Community Housing Development Organization

HOME Investment Partnerships  
Program

2006 CHDO Set-Aside Funding

Housing and Community Services Department  
City of Wichita  
332 N. Riverview  
Wichita, Kansas 67203  
Phone (316) 462-3700  
Fax (316) 462-3719

#### Exhibit B

PERFORMANCE CRITERIA  
AND  
CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and MHRS, Inc., hereinafter referred to as the "City" and "Developer" (or MHRS) respectively, that execution of this contract obligates the Developer to the following performance requirements.

In return for the \$154,942.68 remuneration stated herein, the Developer agrees to undertake an affordable housing program, which will result in the acquisition of sites and construction of at least 5 new single-family homes to be located within any of the City's Local Investment Areas, as identified in the Consolidated Plan. For purposes of this contract, the Orchard Breeze Local Investment Area includes the area of this LIA between Douglas and Second Streets. To be eligible for this program properties acquired under this agreement must be vacant residential lots or sites, or residential lots with vacant, blighted residential structures.

Housing constructed under this agreement must be re-sold to HOME-compliant owner-occupant buyers, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Developer represents and agrees that its purchase of the properties and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

The Developer represents and agrees that it will remain the owner of the properties until it reaches agreement with a prospective buyer(s) of the properties and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Developer to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

I. Project Requirements

G. Project must conform to regulations under 24 CFR Part 92.

B. 24 CFR Part 92, Subpart F specifically describes maximum HOME contribution per unit, property standards, tenant and participation rents and protections, and period of affordability based on the level of HOME fund contributions.

Specific references to HOME Project Requirements can be found as follows:

24 CFR Part 92

92.250, Maximum Per Unit Subsidy,

92.251, Property Standards, Compliance with Quality Standards in 24 CFR 982.4018,

92.254, Qualification as Affordable Housing, Homeownership,

92.257, Religious Organizations.

C. The Developer, a non-profit Community Housing Development Organization (CHDO) is receiving this grant funding as CHDO Set-Aside Funding, under HOME regulations, as specified in 24 CFR 92.300.

VI. Program Content



G. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes, purchase and re-habilitation of existing homes, and the developer fees earned in connection with completion of each unit.

Funding under this agreement will be provided in the form of 0% loans to complete projects on a case-by-case basis, as approved by the Department of Housing and Community Services.

### III. Administration

The MHRS President/C.E.O. will supervise operations and administration on a day-to-day basis. The MHRS Board of Directors is ultimately responsible for program administration.

A. Funding: It is mutually agreed by and between the City and the Developer that the total HOME funds available to MHRS for this project will be \$154,942.68, in the form of a forgivable development subsidy loan, to be used as set forth in the sections entitled Budget and Method of Payment.

H. Budget: The City shall pay the Developer as hereinafter set out; the maximum of \$154,942.68 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Developer in connection with each completed project. The developer fee will be pre-determined at the onset of the construction of each home, and will be paid upon the closing of the sale of each individual home. Proceeds from the sale of homes, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of development subsidy loans provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed projects and extended grant authority as a result of repayments generated by the project. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition, Demolition, Construction Expenses,  
Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee.)

\$154,942.68

TOTAL

\$154,942.68

C. Method of Payment: The Developer agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.

1. The City and MHRS also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than \$10,000, other than those within the scope of this agreement must be approved by the City Council.

2. MHRS will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Developer's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

7. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Developer within three weeks of the Friday on which the draw request was received.

### D. Records and Reports

1. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.

2. The Developer will provide, for the year ending June 30 of each year, beginning June 30, 2007, an annual report of the HOME funded portion of the program. It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developers fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita July 10 of each applicable year.

4. Additionally, a narrative or other description of progress may be provided.

4. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

#### IV. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

A. The Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with 24 CFR 92.254. Said restrictions and covenants will be in force for the period of affordability, which will expire 20 years following the completion of each unit, as defined in 24 CFR 92.2, depending on the amount of funds invested in the project. Deed restrictions/covenants shall remain in force without regard to the repayment of HOME funds or transfer of ownership.

B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.

C. Provide Certificates regarding Debarment and Suspension, as well as other file documentation requested by the City in order to comply with HOME regulations.

K. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing Services Department.

E. Provide evidence that ownership interest in the property vests in MHRS, Inc.. (Copy of Deed, and/or Title Insurance Binder/Policy)

Y. The Developer will notify the City of any properties it contracts to purchase, in order for the City to complete the appropriate environmental reviews prior to closing of the purchase.

Z. The Developer will obtain any and all permits required by the City prior to undertaking construction.

AA. The Developer will obtain the approval of the City of Wichita Housing Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.

BB. The Developer shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development.

J. Prior to executing any contracts for sale of the assisted properties the Developer must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

#### V. Other Program Requirements

A. The Developer shall comply with the applicable provisions of 24 CFR 84.21, Standards for financial Management Systems, requiring independent financial and programmatic audits not less frequently than every two years. In addition to the financial and programmatic audit, the audit shall indicate whether the organization has complied with laws and regulations that may have a material effect on its financial statements and on each Federal assistance program reviewed.

H. Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion and throughout construction to verify compliance. (24 CFR 92.251 of the HOME regulation.)

I. The Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Action Plan must be available for public inspection in the Developer's office. The plan must contain specific steps and actions that the Developer will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

22. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

23. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.

24. Send notices of housing availability (using form provided by the City) to agencies from a list provided by the City.

25. Send a copy of the materials sent to community contacts announcing housing availability to the City of Wichita Housing Services Department.

26. No later than 90 days prior to engaging in marketing activities, the Developer should notify the City of Wichita Housing Services Department, either in writing or by telephone of the dates on which the Developer plans to: (1) begin initial marketing activities; (2) accept purchase contracts; and (3) start initial sales.

27. The Developer must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

D. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

L. The Developer shall provide a project sign throughout the project listing the use of federal Home Investment Partnerships Program funds and the participation of the City of Wichita in the project. The sign shall be professionally constructed and be no smaller than 4 feet by 4 feet, printed on one side, and contain language similar to the following:

Redevelopment Project is financed in part by the City of Wichita and HUD using Home Investment Partnerships Program funds, in partnership with Mennonite Housing Rehabilitation Services, Inc.

The language to be used on the sign shall be submitted to the City for prior review and approval before the sign is constructed. The Developer is responsible to obtain all necessary permits to erect the sign.

M. The Developer shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.

N. Site Improvements: The City will require a Developer to undertake site improvements upon completion of construction. Site improvements include, but are not limited to, sodding of front yards, and 4' chain-link fencing. Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.

H. Warranty: The Developer must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.

## VI. Program Evaluation

The City shall evaluate this project based on the objectives stated in this Exhibit. Failure by the Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Developer on a pro rata basis with level of service. The Developer's records are subject to review by the City to ensure the accuracy and validity of information reported in monthly progress reports.

## Exhibit C

## BUDGET

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee.)

		\$154,942.68
TOTAL	\$154,942.68	

## GRANT AGREEMENT

Between

THE CITY OF WICHITA  
HOUSING AND COMMUNITY SERVICES DEPARTMENT

A  
PARTICIPATING JURISDICTION  
And

Power CDC, Inc.,

A Community Housing Development Organization

HOME Investment Partnerships  
Program

2006 CHDO Set-Aside Funding

Housing and Community Services Department  
City of Wichita  
332 N. Riverview  
Wichita, Kansas 67203  
Phone (316) 462-3700  
Fax (316) 462-3719

Exhibit B

### PERFORMANCE CRITERIA AND CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and Power CDC, Inc., hereinafter referred to as the "City" and "Developer" (or Power CDC) respectively, that execution of this contract obligates the Developer to the following performance requirements.

In return for the \$90,395.91 remuneration stated herein, the Developer agrees to undertake an affordable housing program, which will result in the acquisition of sites and construction of at least 3 new single-family homes to be located within the City's Northeast Local Investment Area, as identified in the Consolidated Plan. To be eligible for this program properties acquired under this agreement must be vacant residential lots or sites, or residential lots with vacant, blighted residential structures.

Housing constructed under this agreement must be re-sold to HOME-compliant owner-occupant buyers, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Developer represents and agrees that its purchase of the properties and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

The Developer represents and agrees that it will remain the owner of the properties until it reaches agreement with a prospective buyer(s) of the properties and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Developer to

prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

I. Project Requirements

J. Project must conform to regulations under 24 CFR Part 92.

B. 24 CFR Part 92, Subpart F specifically describes maximum HOME contribution per unit, property standards, tenant and participation rents and protections, and period of affordability based on the level of HOME fund contributions.

Specific references to HOME Project Requirements can be found as follows:

24 CFR Part 92

92.250, Maximum Per Unit Subsidy,

92.251, Property Standards, Compliance with Quality Standards in 24 CFR 982.4018,

92.254, Qualification as Affordable Housing, Homeownership,

92.257, Religious Organizations.

C. The Developer, a non-profit Community Housing Development Organization (CHDO) is receiving this grant funding as CHDO Set-Aside Funding, under HOME regulations, as specified in 24 CFR 92.300.

VII. Program Content

I. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes, purchase and re-habilitation of existing homes, and the developer fees earned in connection with completion of each unit.

Funding under this agreement will be provided in the form of 0% loans to complete projects on a case-by-case basis, as approved by the Department of Housing and Community Services.

III. Administration

The Power CDC Executive Director will supervise operations and administration on a day-to-day basis. The Power CDC Board of Directors is ultimately responsible for program administration.

A. Funding: It is mutually agreed by and between the City and the Developer that the total HOME funds available to Power CDC for this project will be \$90,395.91, in the form of a forgivable development subsidy loan, to be used as set forth in the sections entitled Budget and Method of Payment.

J. Budget: The City shall pay the Developer as hereinafter set out; the maximum of \$90,395.91 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Developer in connection with each completed project. The developer fee will be pre-determined at the onset of the construction of each home, and will be paid upon the closing of the sale of each individual home. Proceeds from the sale of homes, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of development subsidy loans provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed projects and extended grant authority as a result of repayments generated by the project. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition, Demolition, Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee.)

\$90,395.91

TOTAL

\$90,395.91

C. Method of Payment: The Developer agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.

1. The City and Power CDC also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than \$10,000, other than those within the scope of this agreement must be approved by the City Council.

2. Power CDC will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Developer's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

8. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Developer within three weeks of the Friday on which the draw request was received.

#### D. Records and Reports

1. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.

2. The Developer will provide, for the year ending June 30 of each year, beginning June 30, 2007, an annual report of the HOME funded portion of the program. It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developers fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita July 10 of each applicable year.

5. Additionally, a narrative or other description of progress may be provided.

4. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

#### IV. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

A. The Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with 24 CFR 92.254. Said restrictions and covenants will be in force for the period of affordability, which will expire 20 years following the completion of each unit, as defined in 24 CFR 92.2, depending on the amount of funds invested in the project. Deed restrictions/covenants shall remain in force without regard to the repayment of HOME funds or transfer of ownership.

B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.

C. Provide Certificates regarding Debarment and Suspension, as well as other file documentation requested by the City in order to comply with HOME regulations.

O. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing Services Department.

E. Provide evidence that ownership interest in the property vests in Power CDC, Inc.. (Copy of Deed, and/or Title Insurance Binder/Policy)

CC. The Developer will notify the City of any properties it contracts to purchase, in order for the City to complete the appropriate environmental reviews prior to closing of the purchase.

DD. The Developer will obtain any and all permits required by the City prior to undertaking construction.

EE. The Developer will obtain the approval of the City of Wichita Housing Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.

FF. The Developer shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development.

J. Prior to executing any contracts for sale of the assisted properties the Developer must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

#### V. Other Program Requirements

A. The Developer shall comply with the applicable provisions of 24 CFR 84.21, Standards for financial Management Systems, requiring independent financial and programmatic audits not less frequently than every two years. In addition to the financial and programmatic audit, the audit shall indicate whether the organization has complied with laws and regulations that may have a material effect on its financial statements and on each Federal assistance program reviewed.



K. Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion and throughout construction to verify compliance. (24 CFR 92.251 of the HOME regulation.)

L. The Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Action Plan must be available for public inspection in the Developer's office. The plan must contain specific steps and actions that the Developer will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

28. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

29. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.

30. Send notices of housing availability (using form provided by the City) to agencies from a list provided by the City.

31. Send a copy of the materials sent to community contacts announcing housing availability to the City of Wichita Housing Services Department.

32. No later than 90 days prior to engaging in marketing activities, the Developer should notify the City of Wichita Housing Services Department, either in writing or by telephone of the dates on which the Developer plans to: (1) begin initial marketing activities; (2) accepts purchase contracts; and (3) start initial sales.

33. The Developer must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

D. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

P. The Developer shall provide a project sign throughout the project listing the use of federal Home Investment Partnerships Program funds and the participation of the City of Wichita in the project. The sign shall be professionally constructed and be no smaller than 4 feet by 4 feet, printed on one side, and contain language similar to the following:

Redevelopment Project is financed in part by the City of Wichita and HUD  
using Home Investment Partnerships Program funds, in partnership with Power CDC, Inc.

The language to be used on the sign shall be submitted to the City for prior review and approval before the sign is constructed. The Developer is responsible to obtain all necessary permits to erect the sign.

Q. The Developer shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.

R. Site Improvements: The City will require a Developer to undertake site improvements upon completion of construction. Site improvements include, but are not limited to, sodding of front yards, and 4' chain-link

fencing. Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.

H. Warranty: The Developer must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.

#### VI. Program Evaluation

The City shall evaluate this project based on the objectives stated in this Exhibit. Failure by the Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Developer on a pro rata basis with level of service. The Developer's records are subject to review by the City to ensure the accuracy and validity of information reported in monthly progress reports.

#### Exhibit C

#### BUDGET

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee.)

	\$90,395.91
TOTAL	\$90,395.91

## **Agenda Item No. 21.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0653

TO: Mayor and City Council

SUBJECT: Allocation of HOME Funding (All Districts)

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the allocation.

Background: On March 8, 2005, the City Council approved an allocation of \$182,620 in HOME funding for administration of the City's HOME Program. The HOME Program administration budget includes staff salaries, benefits, indirect administrative charges, Information /Technology Department charges, travel and training expenses, audit costs, and other expenses associated with management of the City's HOME Program.

Analysis: The HOME Program has \$292,120 in program income receipts from the 2004-2005 and 2005-2006 program years. The program income was received in the form of loan repayments and repayments involving completed projects. HOME Program regulations permit the City to utilize 10% of program income receipts for HOME Program administration expenses. Housing and Community Services is requesting allocation of \$29,212 (10% of program income) for HOME Program administration.

Financial Considerations: Funding allocated for HOME Program administration expenses will be used to offset staff salaries and benefit expenses, contractual services and commodities expenses, as permitted under the HOME Program regulation.

Goal Impact: Funding of HOME Program administration provides for management and oversight of HOME-funded projects that contribute to the goal of Economic Vitality and Affordable Living.

Legal Considerations: The use of 10% of program income expenditures for HOME Program administrative expenses is permitted under section 92.207 of the HOME Program regulation.

Recommendations/Actions: It is recommended that the City Council approve the allocation of HOME funding and authorize the necessary signatures.

## **Agenda Item No. 22.**

CITY OF WICHITA  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0654

TO: Mayor and City Council Members

SUBJECT: Lease of Space at Evergreen Recreation Center to USD 259  
(District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the lease.

Background: Unified School District 259 wishes to lease 2,122 square feet in the Evergreen Recreation Center from the City of Wichita in conjunction with the early childhood program at Cloud Elementary School.

Analysis: The lease term on each lease is one year with nine one-year options. The lease term starts July 1, 2006. Base rent is \$748 per month. This amount approximates the operating costs for the leased space and will be adjusted upward or downward annually based on actual operating results.

Financial Considerations: The payments received from the lease will be used to partiall offset the operating costs of the facility.

Goal Impact: Approval enhances the quality of life by increasing the educational services available to the community.

Legal Considerations: The Law Department has approved the lease as to form.

Recommendation/Action: It is recommended that the City Council approve the Lease Agreements and authorize all necessary signatures.

## **Agenda Item 23.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0655

TO: Mayor and City Council

SUBJECT: Approval of the Great Plains Nature Center, Memorandum of Agreement between the U.S. Fish & Wildlife Service, the Kansas Department of Wildlife and Parks and the City of Wichita (District I)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Approve the Memorandum of Agreement.

Background: The Great Plains Nature Center is located at 6232 E. 29th St. North. The U.S. Fish and Wildlife Service (Service), The Kansas Department of Wildlife and Parks, (State) and the City of Wichita (City) have compatible goals in providing interpretive and environmental education opportunities to the public. All three agencies have combined services to provide excellent opportunities for the public to develop an appreciation for wildlife, the environment and a sound stewardship of natural resources.

Analysis: This Memorandum of Agreement (MOA) is intended to supersede the prior MOA between the Service, State and City, executed by such entities on May 5, 1996, October 15, 1996 and October 21, 1996, respectively. The latest MOA is slated to expire on December 31, 2006. The Service provided contractual oversight of the exhibit and interpretive display construction. The Service will continue to provide full-time staff on-site for interpretation and education.

The State funded construction of the exhibits and interpretive displays, has provided furnishings and will continue to provide annual building maintenance and operation for all three agencies, and will continue to provide a building manager and staff in-place for interpretation and education.

The City provided access and exterior facility development and will continue to provide annual maintenance not related to the building to integrate the Center with Chisholm Creek Park. The City will continue to provide staff members at the Center.

Financial Considerations: Continue to provide for the annual landscape operating and maintenance of the site and the adjacent park.

Goal Impact: The MOA will impact the Quality of Life Goal by providing nature opportunities and environmental education to the citizens.

Legal Considerations: Law has approved the MOA as to form.

Recommendation/Actions: It is recommended that the City Council approve the Memorandum of Agreement and authorize the appropriate signatures.

MEMORANDUM OF AGREEMENT  
between the

U.S. FISH & WILDLIFE SERVICE  
and  
KANSAS DEPARTMENT OF WILDLIFE AND PARKS  
and  
WICHITA DEPARTMENT OF PARK AND RECREATION

I. PURPOSE

THIS AGREEMENT between the Department of the Interior, U.S. Fish & Wildlife Service, Region 6, Denver, Colorado, hereinafter referred to as the Service; the State of Kansas, by and through the Kansas Department of Wildlife and Parks, hereinafter referred to as the State; and the Wichita Department of Park and Recreation, hereinafter referred to as the City; is made and entered into as a joint venture for the purpose of operating the Great Plains Nature Center in Wichita, Kansas, hereinafter referred to as the Center. This Memorandum of Agreement is intended to supersede the prior Memorandum of Agreement between the Service, City, and State, executed by such entities on May 5, 1996, October 15, 1996, and October 21, 1996, respectively.

II. AUTHORITY

This agreement is entered into under the authority of the:

- A. Fish and Wildlife Act of 1956, as amended (16 U.S.C. a – 742k).
- B. Fish and Wildlife Coordination Act of 1934, as amended (16 U.S.C. 661-666).
- C. Refuge Recreation Act (U.S.C. paragraph 460 K. et seq), as amended.
- D. National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd – 668ee), as amended.

III. BACKGROUND

The Service, State, and City have compatible goals in providing interpretive and environmental education opportunities to the public. All three agencies have combined resources to provide excellent opportunities for the public to investigate, understand, and develop an appreciation for wildlife, the environment, and a sound stewardship of natural resources.

The Center provides a focal point and source for these agencies to cooperatively provide interpretation and environmental education to achieve the following common goals:

- Provide opportunities to the public to learn about natural resources, especially the wildlife and plant species, of the Great Plains Region. Emphasis will be on the Great Plains ecosystem.
- Provide visitors with enjoyable educational experiences that impart the importance of wise stewardship of natural resources and the roles and responsibilities of the Service, State, and City.
- Serve as community resource for conservation and related informational materials, with emphasis on the importance of urban habitats to wildlife and people.

- Serve as a resource for environmental education with school districts, youth organizations, colleges and universities, conservation organizations, and other groups and individuals interested in wildlife and the environment.
- Provide environmental educational services for and accommodate those groups with special needs.

The potential for informing people about wildlife and environmental concerns is unlimited at the Center. On-site staff will be available for guided tours and learning seminars to groups, schools, youth organizations, etc. Walk-in visitors will be accommodated through exhibits, interpretive displays, printed materials, self-guided interpretive walking trails, audio-visual programs, and on-site demonstrations and presentations.

The Center is to function as a Service administrative site and an educational facility. It is not a unit of the National Wildlife Refuge System.

The Center is located on 7 acres adjacent to the 238-acre Chisholm Creek Park, a Wichita Wild Habitat Area located north of 29th Street North between Oliver and Woodlawn in the City of Wichita.

#### IV. SCOPE OF THE AGREEMENT

##### A. General

The Service acquired approximately 7 acres of land, and designed and constructed a building sufficient to house exhibits and staff for all three agencies. The Service designed all the exhibits and interpretive displays to support each party's mission and goals. The Service provided contractual oversight of the exhibit and interpretive display construction. The Service will continue to provide full-time staff on-site for interpretation and education.

The State funded construction of the exhibits and interpretive displays, has provided furnishings and will continue to provide annual building maintenance and operation for all three agencies, and will continue to provide a building manager and staff in-place for interpretation and education. Sufficient office space will continue to be made available for State regional administrative staff.

The City provided access and exterior facility development and will continue to provide annual maintenance not related to the building to integrate the Center with Chisholm Creek Park. The City will continue to provide three full-time staff members at the Center.

Upon signing this Agreement, the Service, State, and City agree to the establishment of a "Steering Committee" which is to be chaired by an agency representative appointed by the Steering Committee. Each agency will have one member. The terms of Project Officer and Steering Committee Member are used interchangeably.

Office and associated space allocation within the Center will be as follows:

Service – Two offices; total space approximately 300 square feet.

State – Fourteen offices, one conference room, and storage space; total space approximately 3,386 square feet.

City – Three offices; total space approximately 450 square feet.

All other office space, including the extra offices, classrooms, break room rest rooms, lobby, auditorium, exhibit space, and other areas, are space shared by all partners. Appropriate use of these spaces will be determined by the Steering Committee.

##### B. The Parties Agree As Follows:

The Center will be operated and managed as a Service administrative site and will not become a unit of the National Wildlife Refuge System.

The operation of the Center will be jointly accomplished to satisfy the objectives of each party.

The interpretive and educational operation of the Center will be coordinated by a Director appointed by the Steering Committee and will function under the direction of the Steering Committee via issuance of an approved Annual Work Plan.

The Director will be responsible for developing and submitting an Annual Work Plan no later than March 1 each year to the Steering Committee for review and approval. The operation of the Center will continue consistent with the last approved Annual Work Plan, pending approval of a revised, submitted Annual Work Plan. The Director will also be responsible for submitting to the Steering Committee a quarterly report.

The Center will provide visitors with facilities and functions to meet the goals described in Section III of this document.

The Friends of the Great Plains Nature Center, hereinafter referred to as Friends, was incorporated on May 4, 1998, as a non-profit 501 (c)(3) organization. The purpose of the Friends is to support the development and operation of the Center, and support the mission of the Service, State, and City. Support of the Center and the agencies will continue to include the following:

- To increase awareness of the Center and its contribution to the community;
- To sustain the programs of the Center, including education, publications, and special events; and
- To recruit volunteers and raise funds (through annual dues and other contributions) in order to support the organization and educational programs of the Center.

No activity of the Friends shall be in conflict with the policies or mission of the Center or the Service, State, or City.

Agency fiscal requirements and responsibilities will be dependent on Congressional, City, and/or State appropriations.

C. The Service Has Agreed and Continues to Agree to:

Pay annual refuge revenue sharing payments through the Refuge Revenue Sharing Fund to Sedgwick County in accordance with the Refuge Revenue Sharing Act, as amended (PL 95-469).

Provide major capital replacement for materials and equipment which qualify as projects under the Service's deferred maintenance system. These projects will address major maintenance, facility rehabilitation, and major capital repair to the Center.

Provide at least one full-time employee to support the Center's environmental education staff, or to serve in a capacity as determined by the Service or the Steering Committee.

D. The State Has Agreed and Continues to Agree to:

Provide, in cooperation and consultation with the Service and City, interior décor, furnishings, supplies, equipment, and other materials necessary for the Center to be functional.

Provide at least one full-time employee as part of the Center's environmental education staff who shall be responsible for coordinating building operations and maintenance.

Provide an additional full-time employee, or equivalent part-time positions, to support the Center's environmental education staff.



Provide annual operating and maintenance for the Center (e.g., pay utilities, repaint interior, replace carpeting, etc.).

E. The City Has Agreed and Continues to Agree to:

Maintain utilities to the site of the Center including water, sanitary sewer, electricity, telephone, and natural gas.

Provide for the annual landscape operating and maintenance of the site and the adjacent park.

Maintain public access to the Center, including snow removal along sidewalks, parking lots, and roadways, plus necessary maintenance of access routes.

Maintain lighted, paved parking adjacent to the Center for cars and buses.

Provide at least three full-time employees as part of the Center's staff; they will serve in a capacity as determined by the City or by the Steering Committee.

A Center staff member employed by the City will coordinate program use and habitat management of Chisholm Creek Park with activities at the Center. Chisholm Creek Park will be managed in a manner consistent with the goals and educational messages of the Center.

Provide Chisholm Creek Park facilities and habitats for use as an outdoor classroom and interpretive area to complement and enhance the environmental education facility.

#### F. FUNDING

The Service originally provided:

Land Acquisition	\$ 160,000
Building Planning and Design	\$ 707,000
Building Construction	\$ 3,450,000
Exhibits and Education Materials	\$ 500,000

The State originally provided:

Internal Furnishings	\$ 218,000
Interpretive Exhibits (Transfer of funds To the Service)	\$ 782,000

The City originally provided:

Landscaping, Parking Facilities, and Public Access	\$ 1,063,740
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TOTAL FUNDS EXPENDED (Prior to 2000) \$ 6,880,740

#### V. PERIOD OF PERFORMANCE

The period of performance of this agreement is from the date of signing to December 31, 2016.

#### VI. FINANCIAL ADMINISTRATION

Nothing in this agreement shall be construed as committing the City, State or Service to the expenditure of funds except for those funds specified in annual increments of yearly work plans.

#### VII. PROJECT OFFICERS

The Project Officers herein shall be responsible for their agency's compliance with the terms of this agreement. As representatives of the agency and a member of the Steering Committee, they have the authority to approve changes within the scope of the agreement, which will not alter the stated objectives and will not obligate any funds. Each Project Officer will serve as a Steering Committee member.

A. Kansas Department of Wildlife and Parks  
Mr. Bob Mathews, Chief of Information and Education  
Kansas Department of Wildlife and Parks  
512 S.E. 25th Ave.  
Pratt, Kansas 67124  
(620) 672-5911  
FAX (620) 672-6020

B. City of Wichita  
Wichita Department of Park and Recreation  
Mr. Doug Kupper, Director  
City Hall Building  
455 North Main Street  
Wichita, Kansas 67202  
(316) 268-4398  
FAX (316) 268-4447

C. U.S. Fish & Wildlife Service  
Mr. Dave Hilley, Project Leader  
Quivira National Wildlife Refuge  
RR 3, Box 48A  
Stafford, Kansas 67578  
(620) 486-2393  
(620) 486-2315

## VIII. SPECIAL PROVISIONS

A. Real Property. Title to all real property shall be vested with the Service. The recipients collectively shall have a right of first refusal to acquire the Service's fee simple interest in the real property. If the Service determines to sell, or is directed to sell, or otherwise dispose of the real property, then the recipients collectively (or individually upon the failure of the other recipient to agree to purchase) shall have the right to purchase the real property at the same bona fide purchase price offered to the Service by an independent third party on the same terms and conditions as such offer. Such right of first refusal shall remain in full force and effect through the earlier of December 31, 2016, or the completion of a title transfer from the Service to an independent party, pursuant to an offer of purchase of which the recipients have been advised and have failed to match as more fully set forth below. The Service shall advise the recipients in writing of any bona fide offers to purchase that the Service is willing to accept, and shall provide the recipients a copy of such an offer in its entirety to enable the recipients to make a determination whether they collectively, or individually, can make a corresponding offer on the same terms and conditions. The recipients shall have one hundred eighty (180) days after receipt of the bona fide offer to advise the Service that they collectively, or individually, are prepared to exercise such right of first refusal.

B. The State and City shall bear all costs of maintenance and repair of real property provided by the Service under the terms of this agreement except for catastrophic damage (fire, flood, tornado, etc.).

C. The State and City agree to hold the United States harmless from any liability from fines, claims, damages, losses, judgments, and expenses arising out of or resulting from any act, omission, or activity by the

State or City in connection with the activities undertaken in the operation, maintenance, and use of the herein described real property.

## IX. MODIFICATIONS

Modifications to this agreement may be proposed at any time during the period of performance by any of the parties hereto. Modifications shall be issued on a Standard Form 30 and become effective upon signature by an authorized individual of each party. Notwithstanding the provisions of Article VII permitting Project Officers to make and approve certain changes within the scope of the agreement, the authorized individual referenced in this Article IX for the purposes of the State shall be solely the Secretary of the Department of Wildlife and Parks.

## X. TERMINATION

Any party to this agreement may terminate their participation in this agreement by giving written notice to the other two parties; such notice must be given a minimum of one year in advance, and such termination shall be effective on the first day of July immediately following the lapse of the one-year notice period. Termination, or withdrawal, shall not relieve the withdrawing party from any obligations under this agreement, subsequent modification, or the Annual Work Plan, incurred prior to the effective date of the termination. Terminations for cause shall not become effective earlier than one hundred eighty (180) days after the defaulting recipients receipt of the Service's written determination and reasons for termination; provided, however, if the defaulting recipient commences reasonable efforts to cure such noticed default within thirty (30) days after being advised of such default, and diligently pursues such cure without interruption thereafter then the agreement will not be terminated. The default by one recipient in its compliance with the conditions of the agreement shall not constitute "cause" for termination of the agreement with respect to the non-defaulting recipient, provided such non-defaulting recipient within a reasonable period after receipt of written notice that the other recipient has failed to cure such default, cures the default of the other recipient and assumes the prospective obligations remaining under this agreement. A cure of default by a non-defaulting recipient shall not be asserted by the defaulting recipient as a basis not to terminate its interest in the agreement, unless otherwise agreed between the recipients. A recipient which has not timely cured defaults of its obligations, shall be deemed to have forfeited its interest in this agreement, including the right of first refusal to purchase real property. An affidavit by the Project Officer designated by the Service with respect to the default notice given and the lapse of the corresponding cure period, without correction of the noticed default, shall be conclusive proof of the termination of the defaulting recipient's interest in this agreement and its forfeiture of the right of first refusal.

## SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Agreement to be executed as of the date therein written.

Kansas Department of Wildlife and Parks:

Signature: \_\_\_\_\_

Name: Mike Hayden\_\_\_\_\_

Title: Secretary\_\_\_\_\_

Date: \_\_\_\_\_

City of Wichita, Kansas:

Signature: \_\_\_\_\_

Name: Carlos Mayans\_\_\_\_\_

Title: Mayor\_\_\_\_\_

Date: \_\_\_\_\_

U.S. Fish & Wildlife Service:

Signature: \_\_\_\_\_

Name: Mitch King\_\_\_\_\_

Title: Regional Director\_\_\_\_\_

Date: \_\_\_\_\_



## **Agenda Item No. 24.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0656

TO: Mayor and City Council

SUBJECT: Purchase Option (Integrated Healthcare Systems, Inc.) (District II)

INITIATED BY: City Manager's Office

AGENDA: Consent

Recommendation: Adopt the Resolution.

Background: On November 1, 2005, the City Council approved the issuance of \$16,229,000 in Industrial Revenue Bonds, Series IV, 2005, to Integrated Healthcare Systems, Inc., for the benefit of Wichita Clinic P.A. The bonds were used to finance the cost of acquiring, constructing, and equipping a medical office building and ambulatory surgical center. The Bonds are secured, in part, by a Lease Agreement with Integrated Healthcare Systems, Inc. ("Tenant").

Under the provisions of the Lease Agreement the Tenant has the option, if all outstanding bonds and Trustee Fees have been paid, to purchase the facility from the City of Wichita for the sum of \$1,000. The City received notice from the Tenant's Counsel of the Company's to exercise its purchase option.

Analysis: Under the terms of the Lease, the City is required to convey the personal property securing the IRB issue to the Tenant, once the Tenant has paid the purchase price and other considerations as listed under the provisions of the Lease Agreement, including the payment of all outstanding bonds. The Series IV, 2005 Bonds will mature by their terms on July 1, 2006. The City has received Trustee certification that the Bonds will be fully paid on July 1, 2006, and it is now appropriate for the City to deliver the instruments needed to deed the bond-financed property back to Integrated Healthcare Systems, Inc. and terminate the IRB lease. The City has already received payment of the \$1,000 purchase option price.

Financial Considerations: The purchase price is \$1,000 and other considerations as listed under the provision of the Lease Agreement to redeem and retire all outstanding bonds. This price includes without limitations, principal, interest, redemption premium, and all other expenses of redemption, and trustee fees, but after the deduction of any amounts described and provided for in the Lease Agreement and available for such redemption.

Goal Impact: The Economic Vitality of the community is being enhanced with the improvement of quality healthcare services delivered.

Legal Considerations: The City is contractually bound to convey the IRB Project property to the Tenant by special warranty deed, once all the conditions established in the Lease have been met. The City Attorney's Office has approved the form of the attached Resolution to authorize the execution of the Special Warranty Deed and the Termination of Lease Agreement (each in substantially the form attached to the Resolution), and the delivery of such documents following satisfaction of applicable conditions.

Recommendations/Actions: It is recommended that the City Council adopt the Resolution approving the Special Warranty Deed, Bill of Sale and the Termination of Lease Agreement and authorize necessary signatures.



## **Agenda Item No. 25.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0657

TO: Mayor and City Council

SUBJECT: Memorandum of Understanding with the Mental Health Assoc.

INITIATED BY: Wichita Transit

AGENDA: Consent Agenda

Recommendation: Approve the Memorandum of Understanding between the Mental Health Assoc. and Wichita Transit.

Background: The Access to Jobs program provides rides to and from work for low-income workers. Since the start of the program in October 2000, Access has provided 506,603 rides. By entering into an interagency agreement with the Mental Health Assoc., Wichita Transit estimates 1,200 more rides a year to low-income workers. This is the standard Memorandum of Understanding that we use with agencies that want to purchase rides through the Access program. This MOU is a renewal. We have been providing rides for Mental Health Assoc. clients since January of 2003.

Analysis: Part of the Access to Jobs grant is to provide half the cost of the rides that agencies offer low-income clients when they are trying to enter or re-enter the work force. The other half of those expenses are borne by the agency.

Financial Considerations: The Access to Jobs rides will be purchased with grants from FTA (50%) and from the Mental Health Assoc. (50%). No city funds will be involved in the Access rides. The Finance Department has approved the MOU.

Goal Impact: The MOU impacts the goal, "Ensure Efficient Infrastructure." It impacts the indicator "Maintain safe and dependable transportation systems." Entering into this MOU, will allow us to transport more low-income clients to work and back in a safe, cost effective and dependable manner.

Legal Consideration: The City's Law Department has approved the MOU prior to execution as to form.

Recommendations/Actions: It is recommended that the City Council approve the Memorandum of Understanding and authorize the necessary signatures.

Attachments: Memorandum of Understanding and Attachment A.

### **MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding serves as the formal basis for assumption of the following performance requirements by the Wichita Transit, using funds provided under the Welfare to Work provisions of Title IV, Part A of the Social Security Act, as amended.



It is mutually agreed by and between the Director of Wichita Transit and the President the Mental Health Association of South Central Kansas that Wichita Transit will provide all services necessary to carry out the Performance Criteria outlined in Attachment A, and accept payment as proscribed in that document. In addition, WT will undertake the entire Access to Jobs program within the \$1,450,000 budget outlined in Attachment A.

During the administration of activities covered by this Memorandum, Wichita Transit agrees to comply with all applicable laws, regulations, and policies of the United States, the State of Kansas and the city of Wichita, including, but not limited to the following:

1. Equal Opportunity
  - a. Title VI, Civil Rights Act of 1964
  - b. Title IV, Part A of the Social Security Act, as amended.
  - c. Executive Order 11246, as amended.
  - d. ADA of 1990
  - e. City of Wichita Executive Order No. 1.
  - f. City of Wichita Administrative Regulation No. 23.
2. Welfare to Work
  - a. Title IV, Part A of the Social Security Act, as amended.
3. Access to Jobs
  - a. TEA-21, Section 3037
4. Other
  - a. Federal Labor Standards.
  - b. Clean Air Act, as amended.
  - c. City of Wichita Administrative Regulations, as applicable
  - d. FTA Drug Free Workplace and Drug and Alcohol Testing Policy

Any significant change in scope and intent of this Memorandum of Understanding shall be considered and approved or disapproved by the City Council. A significant change is defined as a change in program intent, program beneficiaries, basic program guidelines, and any budget or funding change over \$10,000. Any change approved by the City Council shall have the full force and effect as all other provisions of the Memorandum of Understanding as though originally fully set out herein. Approval of signatories of the Memorandum of Understanding is not necessary for changes approved by the City Council. Changes or amendments to this Memorandum of Understanding not submitted to the City Council for approval must be in writing and have the written approval of all signatories of this agreement.

Approval by the Director of Finance and the City Manager constitutes a directive to implement this project.

#### Signatories

This memorandum of agreement shall remain in force for the duration of this grant and subsequent renewal grants, subject to amendments approved by signatories, and termination authority stated in the attachment.

Rose Mary Mohr  
Mental Health Assoc.  
General Manager

Jay Banasiak  
Wichita Transit

CITY COUNCIL -WICHITA, KS  
Carlos Mayans  
Mayor

ATTEST:

Karen Sublett  
City Clerk

APPROVED AS TO FORM:  
Gary Rebenstorf  
Department of Law

## Attachment A

### Performance Criteria

#### I. Program Description

Service is prepared to begin July 1, 2006 subject to the 50% match basis for a projected project span of 17 months. Should demand grow as is expected, the time span of this grant could shorten. Future FTA funding is already earmarked for a continuation of Wichita's initial grant. Partnering agencies will reimburse the City for 50% of the cost of each ride provided.

The program concept is to provide transportation to clients of the Mental Health Assoc. of South Central Kansas through a coordinated effort of Wichita Transit, local agencies currently having transportation capacity, private transportation providers and cab companies. Service parameters will initially be within the City of Wichita and adjacent industrial improvement districts, 7 days a week 24 hours a day. Service parameters are expected to grow as local employers and other partnering agencies join the program.

Components of this service plan include:

1. City staff to develop partnerships and direct, coordinate and schedule transportation.
2. Transit Center office space will be used as the central focal point for the "one stop shopping" concept.
3. Contract transportation providers will include human service agencies, cab companies, and private transportation providers.
4. As demand grows, WT retains the option to utilize paratransit vans and add van drivers to establish a  
Core service.

#### II. Duties and Responsibilities

Wichita Transit will:

1. provide all administrative services necessary to implement the grant;
2. submit renewing grant applications in a timely manner to continue the program as need demonstrates;
3. schedule and coordinate all transportation, coordinating with local transportation providers or provide the service directly;
4. advise the case manager who the transportation provider will be i.e. taxi, Wichita Transit van, or other service provider;
5. accept transportation requests between 8 a.m. and 3 p.m. Monday through Friday, legal holidays excepted;
6. accept cancellations by 3 o'clock prior to the day of scheduled service;
7. require specified trip origins and destinations from authorizing agencies, including authorized alternative sites for day care of sick children;
8. transport the number of individuals authorized without specific identification;
9. transport all qualifying individuals including those with physical disabilities;
10. notify the referring agency when a scheduled client does not ride;
11. not be providing inter-shift emergency transportation

12. invoice the referring agency monthly for purchased rides in accordance with the cost analysis in this Attachment;
13. invoice the referring agency for “no shows”, in accordance with the rate(s) set forth in this Attachment;
14. review the cost and service quarterly in the first year, and amend this agreement upon mutual agreement;
15. refer all client service coordination efforts to the appropriate case manager.

Mental Health Assoc. will:

1. determine the eligibility of clientele based on 150% of current poverty level guidelines;
2. refer eligible clients to Wichita Transit for transportation services;
3. provide formal authorization for transportation of specified origins and destinations;
4. provide formal authorizations for specified individuals;
5. provide formal notice of cancellation in writing;
6. schedule service through Wichita Transit;
7. authorize individuals to participate in the program;
8. not request inter-shift emergency transportation for clients;
9. review invoices and notify Wichita Transit of discrepancies;
10. notify Wichita Transit of service deficiencies immediately.
11. timely pay to Wichita Transit the sums due on invoices submitted as described below.

It is mutually agreed by the contracting parties that all necessary services to carry out the performance criteria will be implemented.

### III. Method of Payment

Wichita Transit will prepare a monthly invoice with supporting detail and send to the Mental Health Assoc. by the 30th day of the following month. MHA will initiate a payment by check within 15 days upon verification of the invoice. Wichita Transit and the Mental Health Assoc. will agree to any adjustments to the invoice.

### IV. Funding

Services will only be provided to the extent that a local match has been negotiated, up to the limit of available federal matching funds. The projected time period during which federal funds will be available for this grant is until December 2007; however should demand grow as is expected, the span of this grant could be shortened. Further FTA funding is already earmarked for a continuation of Wichita’s initial grant.

### V. Charges for Service

Transportation reimbursements on a per ride basis by the Mental Health Assoc. may not be more than the reimbursements made by other agencies or individual organizations for similar service.

#### Cost Per Ride

Mental Health Assoc.’s cost per ride	\$9 within the City of Wichita and Contiguous improvement districts.
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Trips extended beyond the geographical boundaries established herein are covered at a \$9 per ride cost plus a zone fare, which will be established at a later date by Wichita Transit, and will be available to MHA before it is requested to authorize rides to and from that zone.

Transportation costs will be reviewed quarterly, subject to revision based on operating costs and historical demand of service. Any change in fee, whether increase or decrease, shall be submitted to MHA for approval in a written form 10 days prior to the fee change.

#### No-show charges

The cost of a no-show trip will be invoiced at one half the then current full cost of the trip (i.e. currently \$4.50).

## **Agenda Item No. 26.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0658

TO: Mayor and City Council Members

SUBJECT: Labor Negotiation Consultant Legal Services

INITIATED BY: Department of Law/Human Resources

AGENDA: Consent

Recommendation: Select law firm as the City's Labor Negotiation Consultant

Background: The City of Wichita employs approximately 3,300 employees and has 5 union contracts, with four labor organizations: IAFF, FOP, SEIU and Teamsters. The City will meet and confer in 2006 with the Fraternal Order of Police and International Association of Firefighters Unions, and SEIU and Airport Teamsters in 2007 for future year or years labor contracts. A consultant familiar with public sector negotiations and issues will be of assistance to the City with such negotiations.

A Request for Proposals was promulgated and three law firms responded with proposals to be the City's Labor Negotiation Consultant. The responses were referred to the Labor Negotiation Consultant Review Committee for review. The Committee is comprised of the City Manager, Assistant City Manager, Public Information Officer, Human Resources Director, Employee Relations Officer, Finance Director, Fire Chief, Deputy Police Chief, Director of Water and Sewer Department, and the City Attorney. The Labor Negotiation Consultant Review Committee interviewed all three of the law firms and herewith submits its recommendation to the City Council.

Analysis: The City seeks to employ qualified attorneys to provide professional consultation and legal services in connection with union negotiations. The selected attorney/firm will act as a consultant and advisor on an as needed basis and provide professional consulting services to the City as required and requested to accomplish the negotiation of union contracts. The Labor Negotiation Consultant Review Committee recommends the team of the McAnany, VanCleave and Phillips law firm and Frank Ojile as the law firm team that would provide the greatest benefit to the City as Labor Negotiation Consultant. The recommendation of the team of the McAnany firm and Frank Ojile is based on their municipal labor negotiation experience, handling of conflicts of interest, record of professionalism and quality legal services, accessibility and responsiveness to clients, understanding of the City's contract objectives, experience and expertise of the firm in labor negotiation and municipal labor law, the quality of professional assigned staff, adequacy of resources, ability to provide labor negotiation consulting services on a timely basis, a favorable fee structure, and additional information obtained in the interview process.

Financial Considerations: An agreement outlining the services, compensation schedule and expenses for the City's Labor Negotiation Consultant will be negotiated with the firm selected by the City Council.

Legal Considerations: The Department of Law will draft the Agreement for Professional Services for the City's Labor Negotiation Consultant.

Goal Impact: Provide a Safe and Secure Community.

Recommendation/Action: Select the team of McAnany, VanCleave and Phillips law firm and Frank Ojile as the City's Labor Negotiation Consultant and authorize the staff to negotiate an Agreement for Professional Services to be returned to the Council for approval.

## **Agenda Item No. 28.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0659

TO: Mayor and City Council

SUBJECT: Request for Letter of Intent for Industrial Revenue Bonds  
(Lee Aerospace, Inc.) (District II)

INITIATED BY: City Manager's Office

AGENDA: New Business

Recommendation: Close the public hearing and approve the Letter of Intent for Industrial Revenue Bonds.

Background: On March 16, 1999, the City Council approved the issuance of Industrial Revenue Bonds in an amount of \$3.5 million and a five-plus-five year 100% tax exemption on bond-financed property to Lee Aerospace, Inc. Proceeds from the bond issue were used to acquire property and construct a new facility including 30,000 s.f. for manufacturing space and 8,000 s.f. for office space. On December 2, 2003, City Council approved the issuance of Industrial Revenue Bonds in an amount of \$1.2 million and a five-plus-five year 100% tax exemption to Lee Aerospace. Lee Aerospace, Inc. (Lee Aerospace) is now planning to expand its plant space and requests the issuance of a six-month Letter of Intent for IRBs in the amount not-to-exceed \$2,500,000.

Analysis: Lee Aerospace, Inc., located at 9323 E. 34th Street North in northeast Wichita, is a local corporation founded in 1989. Lee Aerospace is a leading manufacturer of unheated windshields, cockpit side windows, cabin windows, wing leading edge and spar assemblies, control wheels, and sun visor assemblies for the general aviation and corporate jet market. Primary customers are Boeing, Raytheon, Cessna, Spirit AeroSystems, and Bombardier Learjet.

Lee Aerospace has the capabilities to design, develop, test, and manufacture aircraft windows and sheet metal sub-assemblies. Designs can be produced from concept to production in virtually any size configuration of single-ply or multi-ply flat, curved or compound contoured aircraft windows. Lee Aerospace brings a unique service to the aircraft industry that has been a vital part of the Wichita community for the past several years.

Lee Aerospace was acquired in 1999 by The Triumph Group, an aerospace conglomerate with headquarters in Wayne, Pennsylvania and over 30 affiliates nationwide. The association with The Triumph Group has provided Lee Aerospace with the opportunity to expand and diversify its product line and to expand its role as an out-sourcing supplier to the aviation industry.

Bond proceeds will be used to construct a new facility including 40,000 s.f. for manufacturing space on land already owned by an entity related to the company. Lee Aerospace currently employs 115 people and plans to add 50 new jobs over a five-year period, at an average wage of \$35,65 per year.

An analysis of the uses of project funds is:

Building and Improvements	\$2,450,000
Landscape	<u>50,000</u>
Total Cost of Project	\$2,500,000

The firm of Kutak Rock LLP, will serve as bond counsel in the transaction. The Bonds will be privately placed with the company's principal bank. Lee Aerospace agrees to comply with the Standard Letter of Intent Conditions. The company has re-engaged the services of Hutton Construction to serve as general contractor. Hutton was chosen in 1999 to construct the company's headquarters and plant, after having advertised in the Wichita Eagle that the work of general contractor was available. Because the current project is considered a continuation of the original master plan, the company did not advertise for a general contractor this time. They did, however, advertise for sub-contractors.

Financial Considerations: Lee Aerospace, Inc. agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. Under the City's Economic Development Incentive Policy, the Company qualifies for a 100% five-plus-five-year tax exemption on property purchased with bond proceeds.

The estimated first year's taxes on Lee Aerospace's proposed \$2,500,000 expansion would be \$70,910, on real property improvements, based on the 2005 mill levy. Using the allowable tax exemption of 100 percent, the City would be exempting (for the first year) \$70,910 of new taxes from the real property tax rolls. The tax exemption would be shared among the taxing entities as follows: City - \$19,936; County/State - \$18,911; and USD 375 - \$32,063.

In addition, the project will qualify for a sales tax exemption on bond-financed purchases. The estimated amount of exempted sales taxes is \$91,250, including \$78,750 state sales tax and \$12,500 county sales tax.

The cost/benefit analysis based on the fiscal and economic impact model of the Wichita State University's Center for Economic Development and Business Research reflects cost/benefit ratios as follows:

City of Wichita	1.95 to one
Sedgwick County	1.33 to one
USD 375	1.00 to one
State of Kansas	7.77 to one

Goal Impact: Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption and sale tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.



Legal Considerations: Bond documents needed for the issuance of the bonds will be prepared by bond counsel. The City Attorney's Office will review and approve the form of bond documents prior to the issuance of any bonds.

Recommendations/Actions: It is recommended that the City Council close the public hearing and approve a Letter of Intent to Lee Aerospace, Inc. for Industrial Revenue Bonds in an amount not to exceed \$2,500,000, subject to the Standard Letter of Intent Conditions for a term of six-months, and approve a 100% tax abatement on all bond-financed property for an initial five-year period plus an additional five-years following City Council review, and authorize the necessary signatures.

## **Agenda Item No. 29.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0660

TO: Mayor and City Council

SUBJECT: Agreement with Wichita State University Self-Help Network to continue work with the West 21st Street North Community Development Corporation (District 6)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: New Business

Recommendations: Approve the Agreement.

Background: Under its previously approved agreement with the City, the Self-Help Network has been assisting the West 21st Street North Community Development Corporation (CDC) Steering Committee to complete its application to the Internal Revenue Service for non-profit status, to recruit its board of directors, to develop a work program, and to begin the process of securing funding beyond that which the City has committed. That contract expired at the end of May.

The CDC Steering Committee has made tremendous progress as a result of the Self-Help Network's assistance and would like to have the agreement continued until the new CDC is functioning on its own. They are concerned that they will lose the momentum that they have achieved. They are asking that the City Council fund an additional agreement for another year (to the end of May 2007) with the Self-Help Network for a total of \$60,000. It is proposed that \$35,000 would come from FY 2006 economic development funds and the remaining \$25,000 from FY 2007 economic development funds. The attached Agreement would allow the Self-Help Network to assist the CDC to complete and submit its application to the IRS, to finish the recruitment and orientation of the new CDC's Board of Directors, and to provide a grants writer who can help the CDC secure funding for its operations and additional capital for its projects.

Analysis: The West 21st Street Community Development Corporation can be an important means by which the recommendations of the 21st Street North Corridor Revitalization Plan are implemented. It has made significant progress in the past year and is on the verge of becoming an effective CDC. This continuing assistance by the Self-Help Network will help assure that outcome.

Financial Considerations: The total cost of the contract extension is \$60,000, to be spread over two fiscal years. \$35,000 would come from FY 2006 economic development funds and the remaining \$25,000 from FY 2007 economic development funds.

Goal Impact: Economic Vitality and Affordable Living. This action by the City Council will help the West 21st Street North CDC become an effective means by which the goals of the 21st Street North Corridor Revitalization Plan can be achieved.

Legal Considerations: The proposed Agreement with the Self-Help Network has been reviewed by the Law Department and approved as to form.

Recommendation/Actions: It is recommended that the City Council approve the proposed Agreement with the Wichita State University Self-Help Network and authorize the necessary signatures.



## **Agenda Item No. 30.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0661

TO: Mayor and City Council Members

SUBJECT: AMENDMENTS TO SECTION 11.38.155 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO DRIVING A COMMERCIAL VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS.

INITIATED BY: Law Department

AGENDA: New Business

Recommendation: Approve first reading of the ordinance.

Background: The Kansas Legislature, through the passage of HB 2916, amended the penalty for Driving a Commercial Vehicle While Under the Influence of Alcohol and/or Drugs in violation of K.S.A. 8-2,144. The statute was amended to clarify that the penalties for violation coincide exactly with those for Driving Under the Influence of Alcohol and/or Drugs, contrary to K.S.A. 8-1567 (non-commercial vehicle), and escalate with each subsequent conviction throughout a person's lifetime.

Analysis: The amendments to 11.38.155 must be passed, in order to comply with the mandates of HB 2916 amending K.S.A. 8-2, 144. Municipal criminal ordinances cannot be less restrictive than state criminal statutes, and without this amendment, the law could be interpreted as providing for a lesser penalty than that specified in HB 2916.

Financial Considerations: None.

Goal Impact: Provide a Safe and Secure Community. This amendment will allow the Police Department and Law Department to continue to charge and prosecute violations of driving a commercial vehicle while under the influence of alcohol and/or drugs.

Legal Considerations: The City of Wichita Law Department has drafted and approved the amended ordinance as to form.

Recommendation/ Actions: It is recommended that the City Council approve first reading of the ordinance.

Attachment: Ordinance

(First Published in The Wichita Eagle on \_\_\_\_\_)  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 11.38.155 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO DRIVING A COMMERCIAL VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS AND THE PENALTIES THEREFORE, AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 11.38.155 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Driving a commercial vehicle while under the influence of alcohol and/or drugs illegal – Penalty – Testing and reporting. (a) No person shall operate any commercial motor vehicle, as defined in K.S.A. 8-2, 128, and amendments thereto, within the city while:

(1) The alcohol concentration in the person's blood or breath, as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and amendments thereto, is .04 or more;

(2) the alcohol concentration in the person's blood or breath, as measured within two hours of the time of driving a commercial motor vehicle, is .04 or more; or

(3) committing a violation of Section 11.38.150, and amendments thereto.

(b) Violation of this section is a misdemeanor. Upon a first conviction of a violation of this section, a person shall be sentenced to not less than forty-eight consecutive hours nor more than six months imprisonment or, in the court's discretion, one hundred hours of public service, and fined not less than five hundred dollars nor more than one thousand dollars. The person convicted must serve at least forty-eight consecutive hours imprisonment or one hundred hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. In addition, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program or a treatment program as provided in K.S.A. 8-1008 and amendments thereto, or both such education and treatment programs.

(c) On a second conviction of a violation of this section, a person shall be sentenced to not less than ninety days nor more than one year's imprisonment and fined not less than one thousand dollars nor more than one thousand five hundred dollars. The person convicted must serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served forty-eight consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of the each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served forty-eight consecutive hours' imprisonment. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete a treatment program for alcohol and drug abuse as provided in K.S.A. 8-1008 and amendments thereto.

(d) The court shall report every conviction of a violation of this section to the Division of Motor Vehicles of the Department of Revenue of the state. Prior to sentencing under the provisions of this section, the court shall request and shall receive from said Division a record of all prior convictions obtained against such person for any violation of any of the motor vehicle laws of this state.

(e) For the purpose of this section, "alcohol concentration" means the number of grams of alcohol per one hundred milliliters of blood or per two hundred ten liters of breath.

(f) Whenever a law enforcement officer has reasonable ground to believe a person has been driving a commercial motor vehicle in violation of the provisions of this section, such officer shall follow the procedures for notice, testing, and certification of test refusal or results as set forth in K.S.A. 8-2,145 and amendments thereto.

(g) It shall not be a defense that the person did not understand the notices required by this section.”

SECTION 2. The original of Section 11.38.155 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon adoption and publication in the official city newspaper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of

\_\_\_\_\_ 2006.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

## **Agenda Item No. 31.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0662

TO: Mayor and City Council Members

SUBJECT: CREATION OF NEW SECTION 11.92.070 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO PROSECUTION OF JUVENILE TRAFFIC OFFENDERS IN MUNICIPAL COURT.

INITIATED BY: Law Department

AGENDA: New Business

Recommendation: Approve first reading of the ordinance.

Background: In HB 2706, the Kansas Legislature expanded the definition of “traffic offense” in the traffic code to include driving without proof of insurance, thereby allowing juveniles age 14 and over who violate this provision to be prosecuted as adults in either municipal court or the district court rather than be prosecuted under the Juvenile Offenders Code.

Analysis: The proposed ordinance is designed to clarify the law regarding prosecution of juveniles in municipal court. While most of the ordinance has been a part of state statute for quite a few years, the provisions therein have never been made a part of the Wichita City Code.

Financial Considerations: None.

Goal Impact: Provide a Safe and Secure Community. This amendment will assist the Police Department and Law Department in charging and prosecuting juvenile traffic offenders for prosecution in the Wichita municipal court. It will also allow the prosecution of juveniles who operate a motor vehicle without liability insurance.

Legal Considerations: The City of Wichita Law Department drafted and approved the proposed ordinance as to form.

Recommendation/ Actions: It is recommended that the City Council approve first reading of the ordinance.

Attachment: Ordinance.

(First Published in The Wichita Eagle on \_\_\_\_\_)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CREATING NEW SECTION 11.92.070 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTINING TO THE PROSECUTION OF JUVENILE TRAFFIC OFFENDERS IN THE MUNICIPAL COURT, AUTHORIZED DISPOSTIONS, AND THE DEFINITION OF TRAFFIC OFFENSE.



BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 11.92.070 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“ Prosecution of juvenile traffic offenders; disposition. (a) Subject to the provisions of this section and of K.S.A. 8-2117 and amendments thereto, the municipal court of the City of Wichita has jurisdiction to hear prosecutions of traffic offenses involving any child 14 or more years of age but less than 18 years of age. The court, upon hearing the prosecution, may impose any fine authorized by law for a traffic offense, including a violation of Section 11.38.150 and amendments thereto, and may order that the child be placed in a juvenile detention facility, as defined by K.S.A. 38-1602 and amendments thereto, for not more than 10 days. If the child is less than 18 years of age, the child shall not be incarcerated in a jail as defined by K.S.A. 38-1602 and amendments thereto. If the statute under which the child is convicted requires a revocation or suspension of driving privileges, the court shall revoke or suspend such privileges in accordance with that statute. Otherwise, the court may suspend the license of any person who is convicted of a traffic offense and who was under 18 years of age at the time of commission of the offense. Suspension of a license shall be for a period not exceeding one year, as ordered by the court. Upon suspending any license pursuant to this section, the court shall require that the license be surrendered to the court and shall transmit the license to the division of vehicles with a copy of the court order showing the time for which the license is suspended. The court may modify the time for which the license is suspended, in which case it shall notify the division of vehicles in writing of the modification. After the time period has passed for which the license is suspended, reinstatement of the license shall be in accordance with the provisions of K.S.A. 8-2117 and amendments thereto.

(b) Instead of suspending a driver's license pursuant to this section, the court may place restrictions on the child's driver's privileges pursuant to K.S.A. 8-292 and amendments thereto.

(c) Instead of the penalties provided in subsections (a) and (b), the court may place the child under a house arrest program, pursuant to K.S.A. 21-4603b and amendments thereto, and sentence the child to the same sentence as an adult traffic offender under the provisions of this code.

(d) As used in this section, "traffic offense" means a violation of any section of this code which prohibits acts which would constitute a violation of the uniform act regulating traffic on highways as set forth in state law, a violation of articles 1 and 2 of chapter 8 of the Kansas Statutes Annotated, or a violation of K.S.A. 41-3104 and amendments thereto, and any violation of a section of this code which prohibits acts which are not violations of state laws and which relate to the regulation of traffic on the roads, highways or streets or the operation of self-propelled or nonself-propelled vehicles of any kind.”

SECTION 2. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon adoption and publication in the official city newspaper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

## **Agenda Item No. 32.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0663

TO: Mayor and City Council Members

SUBJECT: CREATION OF NEW SECTION 4.04.017, AND AMENDING SECTIONS 4.04.025 AND 4.16.130 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO MINORS POSSESSING, CONSUMING, PURCHASING OR OBTAINING ALCOHOLIC BEVERAGES.

INITIATED BY: Law Department

AGENDA: New Business

Recommendation: Approve first reading of the ordinance.

Background: The Kansas Legislature, through the passage of HB 2916, has amended the statute prohibiting minors from the possession, consumption or purchase of alcoholic beverages, providing that a person under 21 years of age could be requested to submit to a preliminary screening breath test if a law enforcement officer has reasonable grounds to believe the person has alcohol in their body. The results of the test or a refusal to submit to the test would be admissible in court but would not be per se proof of a violation. The proposed ordinance combines the current ordinances dealing separately with alcoholic liquor and cereal malt beverage into one ordinance for ease of enforcement. Finally, the Kansas Legislature has imposed certain mandatory penalties for this activity that have been incorporated into the proposed amendment.

Analysis: The proposed amendment will provide for easier enforcement of the prohibition against minors possessing, consuming or purchasing alcoholic beverages by combining the two separate ordinances that currently exist. Further, the provision allowing law enforcement to gather evidence of violations through the use of a preliminary breath screening test will give the Police and Prosecutors an added enforcement tool. Finally, the amendments imposing the penalties for violation of this ordinance must be passed in order to comply with the mandates of the Legislature. Municipal criminal ordinances cannot be less restrictive than state criminal statutes.

Financial Considerations: None.

Goal Impact: Provide a Safe and Secure Community. This amendment will allow the Police Department and Law Department to continue to charge and prosecute violations of the law prohibiting the possession, consumption, or purchase of alcoholic beverages by minors. Enforcement will be enhanced by the addition of the preliminary breath screening test for violations as well as combining the violations into one ordinance.

Legal Considerations: The City of Wichita Law Department drafted and approved the proposed ordinance as to form.

Recommendation/ Actions: It is recommended that the City Council approve first reading of the ordinance.

Attachment: Ordinance.

(First Published in The Wichita Eagle on \_\_\_\_\_)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CREATING NEW SECTION 4.04.017 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO MINORS POSSESSING, CONSUMING, PURCHASING OR OBTAINING ALCOHOLIC BEVERAGES, THE PENALTY THEREFOR, USE OF A PRELIMINARY BREATH TEST BY LAW ENFORCEMENT AS EVIDENCE OF VIOLATIONS, AND AMENDING SECTIONS 4.04.025 AND 4.16.130 OF THE CITY CODE AND REPEALLING SECTION 4.12.025 OF THE CITY CODE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 4.04.017 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Purchase or consumption of alcoholic beverage by minor; penalty; exceptions, use of preliminary breath test to determine violations. (a) Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S. A. 41-308a, 41-308b, 41-727a, 41-2610, 41-2652, 41-2704, and 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such statutes, and as permitted by Section 4.12.140 and 4.16.080 of this Code, and amendments thereto, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase any alcoholic beverage except as authorized by law.

(b) As used in this section, "alcoholic beverage" means any alcoholic liquor, as defined by Section 4.04.010(b) of the Code of the City of Wichita and amendments thereto, or any cereal malt beverage, as defined by Section 4.04.010(h) of the Code of the City of Wichita and amendments thereto.

(c) Violation of this section by a person 18 or more years of age but less than 21 years of age is a misdemeanor for which the minimum fine is two hundred dollars.

(d) Any person less than 18 years of age who violates this section is a juvenile offender under the Kansas juvenile justice code. Upon adjudication thereof and as a condition of disposition, the court shall require the offender to pay a fine of not less than two hundred dollars nor more than five hundred dollars.

(e) In addition to any other penalty provided for a violation of this section: (1) The court may order the offender to do either or both of the following:

(A) Perform 40 hours of public service; or

(B) attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans; and

(2) upon a first conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 30 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 30 days whether or not that person has a driver's license.

(3) Upon a second conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 90 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 90 days whether or not that person has a driver's license.

(4) Upon a third or subsequent conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for one year. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for one year whether or not that person has a driver's license.

(e) This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

(f) A law enforcement officer may request a person under 21 years of age to submit to a preliminary screening test of the person's breath to determine if alcohol has been consumed by such person if the officer has reasonable grounds to believe that the person has alcohol in the person's body except that, if the officer has reasonable grounds to believe the person has been operating or attempting to operate a vehicle under the influence of alcohol, the provisions of K.S.A. 8-1012, and amendments thereto, shall apply. No waiting period shall apply to the use of a preliminary breath test under this subsection. If the person submits to the test, the results shall be used for the purpose of assisting law enforcing officers in determining whether an arrest

should be made for violation of this section. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results or a refusal to submit to a preliminary breath test shall be admissible in court in any criminal action, but are not per se proof that the person has violated this section. The person may present to the court evidence to establish the positive preliminary screening test was not the result of a violation of this section.”

SECTION 2. Section 4.04.025 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“ Alcoholic liquor, minors, incapacitated person – Prohibited acts. (a) No person shall knowingly or unknowingly furnish alcoholic liquor to a minor.

(1) Furnishing alcoholic liquor to a minor is directly or indirectly selling, giving, exchanging, delivering or in any way furnishing any alcoholic liquor to, for, on behalf of, or at the request of any minor.

(2) As used in this section, all terms have the meanings provided by Section 4.04.010 of the Code of the City of Wichita, Kansas, and amendments thereto.

(3) Any person violating any of the provisions of this subsection shall be guilty of a misdemeanor, and upon a first conviction thereof shall be punished by a fine of not less than two hundred dollars nor more than one thousand dollars or by imprisonment for not more than six months, or by both such fine and imprisonment; and upon a second conviction thereof shall be punished by a fine of not less than three hundred dollars nor more than one thousand dollars or by imprisonment for not more than six months or by both such fine and imprisonment; and upon a third or subsequent conviction thereof shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

(b) It shall be a defense to a prosecution under this section if:

(1) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit, or an employee thereof; and

(2) The defendant sold the alcoholic liquor to the minor with reasonable cause to believe that the minor was twenty-one or more years of age; and

(3) To purchase the alcoholic liquor, the minor exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document containing a photograph of the minor and purporting to establish that such minor was twenty-one or more years of age.

(c) No person shall knowingly sell, give away, dispose of, or exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person who is an incapacitated person, or any person who is physically or mentally incapacitated by the consumption of such liquor. Violation of this section is a misdemeanor. Upon first conviction of a violation of this subsection, a person shall be punished by a fine of not less than one hundred dollars nor more than two hundred fifty dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment; and upon a second conviction of a violation of this subsection, a person shall be punished by a fine of not less than two hundred dollars nor more than two hundred fifty dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment; and upon a third or subsequent conviction for a violation of this subsection, a person shall be punished by a fine of two hundred fifty dollars or by imprisonment not exceeding thirty days or by both such fine and imprisonment.

(d) For the purpose of determining whether a conviction is a second, third or subsequent conviction under this section, all convictions for violation of the sections and chapters enumerated herein occurring within the immediately preceding eighteen months, including those prior to the effective date of this section, shall be aggregated and considered together and it is irrelevant whether an offense occurred before or after conviction for a prior offense.”

SECTION 3. Section 4.16.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Permitting consumption by minors; minors prohibited from entering or remaining in drinking establishments; exceptions; penalties. (a) No licensee, permit holder, or any owner, officer, or employee thereof, shall knowingly or unknowingly permit the possession or consumption of alcoholic liquor on premises licensed as a drinking establishment or drinking establishment/restaurant by a person under legal age, except that a licensee's or permit holder's employee who is not less than eighteen years of age may serve alcoholic liquor under the on-premises supervision of the licensee or permit holder, or an employee who is twenty-one years of age or older.

(b) No licensee, permit holder, or any owner, officer, or employee of a drinking establishment, shall knowingly or unknowingly permit a person under the legal age for consumption of alcoholic liquor to enter or

remain on the premises of a drinking establishment and no person under the legal age for consumption of alcoholic liquor shall enter or remain on the premises of a drinking establishment.

(c) The defense set forth in Section 4.04.025(b) of this code, and amendments thereto, shall apply to prosecutions under subsections (a) and (b) of this section.

(d) Any licensee, permit holder, or any owner, officer or employee thereof who violates any provision of this section is guilty of a misdemeanor and upon conviction shall be punished as provided in Section 4.16.190 and amendments thereto.

(e) Violation of this section by a person eighteen or more years of age but less than twenty-one years of age is a misdemeanor punishable by a fine of not less than two hundred dollars and not more than five hundred dollars. In addition to such fine the court may order the offender to perform forty hours of public service.

Further, any person less than eighteen years of age who violates this section is a juvenile offender under the Kansas Juvenile Offenders Code and upon adjudication thereof, shall be required as a condition of disposition to pay the fine or perform the public service, or both, specified as punishment in this sub section for the offense.

(f) The provisions of subsection (b) of this section applies only to drinking establishments and not to drinking establishment/restaurants, as those terms are defined in Section 4.04.010 and amendments thereto. Be it provided, however, the provisions of subsection (b) of this section shall not apply to a drinking establishment when the licensed premises are leased to a bona fide religious organization for the purpose of conducting religious services, but only during the actual time when such religious services are being held. During the time when religious services are being held, all alcoholic liquor must be removed from the licensed premises, or secured behind locked cabinets, and no alcoholic liquor or cereal malt beverage shall be available to any participants in the religious services, except that nothing contained in this subsection shall prevent the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church."

SECTION 4. Section 4.12.025 of the Code of the City of Wichita, Kansas is hereby repealed.

SECTION 5. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon adoption and publication in the official city newspaper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

## **Agenda Item No. 33.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0664

TO: Mayor and City Council Members

SUBJECT: AMENDMENTS TO SECTIONS 4.16.135 AND 4.16.155 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO EXCEPTIONS TO REMOVAL OF OPEN BOTTLES OF ALCOHOLIC LIQUOR FROM THE LICENSED PREMISES OF A CLUB OR DRINKING ESTABLISHMENT.

INITIATED BY: Law Department

AGENDA: New Business

Recommendation: Approve first reading of the ordinance.

Background: The Kansas Legislature, through the passage of SB 297 authorized drinking establishments and clubs to permit legal patrons to remove one or more opened containers of alcoholic liquor from the licensed premises, if such containers are the original containers and securely resealed, placed in a tamper-proof transparent bag and contains a dated receipt for the unfinished container. Under Kansas law, establishments may only sell by the drink, except wine may be sold by the bottle or by the carafe. This is the only exception.

Analysis: Currently, the City's ordinances prohibit the removal of any opened container of alcoholic liquor from any licensed premises. If passed, the proposed amendments will authorize establishments within the city to allow their patrons to take home unfinished containers of alcoholic liquor in tamper-proof bags.

Financial Considerations: None.

Goal Impact: Provide a Safe and Secure Community. This amendment will allow for consistent laws pertaining to alcoholic liquor. It could also encourage patrons to consume less alcoholic liquor and avoid becoming over served if the unconsumed portion can be taken home.

Legal Considerations: The City of Wichita Law Department has drafted and approved the proposed ordinance as to form.

Recommendation/Actions: It is recommended that the City Council approve first reading of the ordinance.

Attachment: Ordinance.

AN ORDINANCE AMENDING SECTIONS 4.16.135 AND 4.16.155 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO EXCEPTIONS TO THE PROHIBITION AGAINST REMOVAL OF OPEN BOTTLES OF ALCOHOLIC LIQUOR FROM THE LICENSED PREMISES OF A CLUB OR DRINKING ESTABLISHMENT AND REPEALING THE ORIGINALS OF SAID SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 4.16.135 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:  
“Removal of alcoholic liquor from licensed premises prohibited; exceptions. (a) No person shall remove any drink of alcoholic liquor from premises licensed as a club or drinking establishment or from a caterer's premises, or from premises licensed pursuant to a temporary permit. Violation of this section by a person is a misdemeanor punishable by a fine not to exceed one hundred dollars.

(b) Exceptions. Subsection (a) herein shall not apply to a person who removes alcoholic liquor from premises licensed as a class A club, class B club, drinking establishment, drinking establishment/restaurant or drinking establishment/restaurant/event center as allowed in Section 4.16.155(c) and any amendments thereto.”

SECTION 2. Section 4.16.155 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:  
“No drinks promotion, allowing removal of alcoholic liquor from certain licensed premises. (a) No club, drinking establishment, drinking establishment/restaurant or drinking establishment/restaurant/event center, caterer or holder of a temporary permit nor any person acting as an employee or agent thereof, pursuant to Title 4 shall:

- (1) Offer or serve any free drink of cereal malt beverage or alcoholic liquor in any form to any person;
  - (2) Offer or serve to any person a drink of cereal malt beverage or alcoholic liquor at a price that is less than the acquisition cost of the drink to the licensee or permit holder;
  - (3) Sell, offer to sell or serve to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the general public or to the general membership of a club;
  - (4) Sell, offer to sell or serve any drink of cereal malt beverage or alcoholic liquor to any person at any time at a price less than that charged all other purchasers of drinks on that day;
  - (5) Increase the volume of alcoholic liquor contained in a drink or the size of a drink or cereal malt beverage without increasing proportionately the price regularly charged for the drink on that day;
  - (6) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of drinks as prizes;
  - (7) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a)(1) through (6);
  - (8) Sell, offer to sell or serve any drink of alcoholic liquor or cereal malt beverage for consumption off of the licensed premises;
  - (9) Knowingly allow or permit any person to remove a drink of alcoholic liquor from the licensed premises or from the caterer's premises, except as allowed in subsection (c).
- (b) Nothing in subsection (a) shall be construed to prohibit a club, drinking establishment, drinking establishment/restaurant or drinking establishment/restaurant/event center, caterer or holder of a temporary permit from:
- (1) Offering free food or entertainment at any time; or
  - (2) Selling or delivering wine by the bottle or carafe.
- (c) Notwithstanding the provisions in subsection (a), a class A club license, class B club license, drinking establishment, drinking establishment/restaurant or drinking establishment/restaurant/event center shall allow the licensee to allow legal patrons of the club or drinking establishment to remove from the licensed premises one or more opened containers of alcoholic liquor, subject to the following conditions:
- (1) It must be legal for the licensee to sell the alcoholic liquor in its original container;
  - (2) the alcoholic liquor must be in its original container;
  - (3) each container of alcoholic liquor must have been purchased by a patron and the alcoholic liquor in each container must have been partially consumed on the licensed premises;



(4) the licensee or the licensee's employee must provide the patron with a dated receipt for the unfinished container or containers of alcoholic liquor; and

(5) before the container of alcoholic liquor is removed from the licensed premises, the licensee or the licensee's employee must securely reseal each container, place the container in a tamper-proof, transparent bag which is sealed in a manner that makes it visibly apparent if the bag is subsequently tampered with or opened.

(d) Violation of any provision of this section is a misdemeanor and punishable by a fine of not more than five hundred dollars or imprisonment not to exceed six months or by both such fine and imprisonment.

(e) Violation of any provision of this act shall be grounds for suspension or revocation of the retailer's license as provided by Title 4."

SECTION 3. The originals of Sections 4.16.135 and 4.16.155 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 4. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon adoption and publication in the official city newspaper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

## **Agenda Item No. 34.**

City of Wichita  
City Council Meeting  
June 20, 2006  
Agenda Report No. 06-0665

TO: Mayor and City Council Members

SUBJECT: CREATION OF NEW SECTION 11.38.158 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO TRANSPORT-ING AN OPEN CONTAINER OF ALCOHOLIC BEVERAGE.

INITIATED BY: Law Department

AGENDA: New Business

Recommendation: Approve first reading of the ordinance.

Background: The Kansas Legislature has combined the statutes prohibiting transporting an open container of cereal malt beverage and transporting an open container of alcoholic liquor and relocated the single statute to the state's traffic code. A similar ordinance is proposed for the City's traffic code which also contains additional changes made the 2006 Legislature in Senate Bill 297, addressing the transportation of open alcoholic beverage containers in vehicles that are not equipped with a trunk, such as a sport utility vehicle.

Analysis: The proposed amendment will allow the city to be consistent with state law and will also clarify the activities that are prohibited. Also, the open container laws have always been considered traffic violations, but have been located with the ordinances pertaining to licensing the sale of alcoholic beverages. Creating a new ordinance that is located in the traffic code and combining the existing ordinances allow for more efficient enforcement of this law.

Financial Considerations: None.

Goal Impact: Provide a Safe and Secure Community. This amendment will allow the Police Department and Law Department to continue to more effectively charge and prosecute violations of the open container law. It also clarifies the rules for both the Police and the public regarding transporting open containers of alcoholic beverages in certain types of vehicles, such as buses, recreational vehicles and vehicles not equipped with a trunk.

Legal Considerations: The City of Wichita Law Department drafted and approved the proposed ordinance as to form.

Recommendation/ Actions: It is recommended that the City Council approve first reading of the ordinance.

Attachment: Ordinance.

(First Published in The Wichita Eagle on \_\_\_\_\_)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CREATING NEW SECTION 11.38.158 PERTAINING TO TRANSPORTING AN OPEN CONTAINER OF ALCOHOLIC BEVERAGE AND THE PENALTY THEREFOR, AND REPEALING SECTIONS 4.04.030 AND 4.12.197 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 11.38.158 of the Code of the City of Wichita, Kansas is hereby created to read as follows: "Transportation of alcoholic beverages in opened containers upon a highway or street unlawful; exceptions; report of prior convictions. (a) As used in this section, "alcoholic beverage" means any alcoholic liquor, as defined by Section 4.04.010(b) of the Code of the City of Wichita and amendments thereto, or any cereal malt beverage, as defined by Section 4.04.010(h) of the Code of the City of Wichita and amendments thereto.

(b) No person shall transport in any vehicle upon a public highway, street or alley, within the corporate limits of the city, any alcoholic beverage unless such beverage is:

(1) In the original unopened package or container, the seal of which has not been broken and from which the original cap, cork or other means of closure has not been removed;

(2) (A) in the locked rear trunk or rear compartment, or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion; or

(B) if a motor vehicle is not equipped with a trunk, behind the last upright seat or in an area not normally occupied by the driver or a passenger; or

(3) in the exclusive possession of a passenger in a vehicle which is a recreational vehicle, as defined by Section 11.04.271 of the Code of the City of Wichita and amendments thereto, or a bus, as defined by Section 11.04.025 of the Code of the City of Wichita and amendments thereto, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.

(c) Violation of this section is a misdemeanor punishable by a fine of not more than \$200 or by imprisonment for not more than six months, or both.

(d) Except as provided in subsection (f) upon conviction or adjudication of a second or subsequent violation of this section, the judge, in addition to any other penalty or disposition ordered pursuant to law, shall suspend the person's driver's license or privilege to operate a motor vehicle on the streets and highways of this state for one year.

(e) Upon suspension of a license pursuant to this section, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(f) As used in this section, "highway" and "street" have the meanings provided by Section 11.04.355 of the Code of the City of Wichita and amendments thereto.

(g) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person convicted of violating this section, as provided in subsection (d), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year for a second violation.

Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator, of such person's state

of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this section.

Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this subsection, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(h) It shall be an affirmative defense to any prosecution under this section that an occupant of the vehicle other than the defendant was in exclusive possession of the alcoholic liquor.

(i) The court shall report to the division every conviction of a violation of this section or of a city ordinance or county resolution that prohibits the acts prohibited by this section. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(j) For the purpose of determining whether a conviction is a first, second or subsequent conviction in sentencing under this section:

(1) "Conviction" includes being convicted of a violation of an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits;

(2) only convictions occurring in the immediately preceding five years, including prior to the effective date of this act, shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second or subsequent offender, whichever is applicable; and

(3) it is irrelevant whether an offense occurred before or after conviction for a previous offense."

SECTION 2. The originals of Sections 4.04.030 and 4.12.197 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon adoption and publication in the official city newspaper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

## **Agenda Item No. 35.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0666

TO: Mayor and City Council Members

SUBJECT: AMENDMENTS TO SECTION 5.16.010 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO DESECRATING A CEMETERY OR BURIAL PLACE.

INITIATED BY: Law Department

AGENDA: New Business

Recommendation: Approve the ordinance.

Background: The Kansas Legislature increased the jurisdictional amount for the misdemeanor crime of criminal desecration. Under the existing state statute, K.S.A. 21-4111, violation of criminal desecration was a misdemeanor offense if the damage done to property within a cemetery was less than \$500. The amendments to K.S.A. 21-4111, found in 2006 Senate Bill 366, raise the misdemeanor jurisdictional amount to include damage done to property in a cemetery in an amount less than \$1,000.

Analysis: The amendments to 5.16.010 must be passed, in order to comply with the mandates of state statute, K.S.A. 21-4111, regarding jurisdictional limits for the crime of misdemeanor criminal desecration of a cemetery or burial place. Municipal criminal ordinances cannot be less restrictive than state criminal statutes. The amendment also contains some clean-up language to reflect State law provisions.

Financial Considerations: None.

Goal Impact: Provide a Safe and Secure Community. This amendment will allow the Police Department and Law Department to continue to charge and prosecute violations of criminal desecration of a cemetery or burial place.

Legal Considerations: The City of Wichita Law Department drafted the amended ordinance and approved it as to form.

Recommendation/ Actions: It is recommended that the City Council approve first reading of the ordinance.

Attachment: Ordinance.

(First Published in The Wichita Eagle on \_\_\_\_\_)

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 5.16.010 OF THE CODE OF THE CITY OF WICHITA, KANSAS,  
PERTAINING TO DESECRATING A CEMETERY OR BURIAL PLACE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. 5.16.010 of the Code of the City of Wichita, Kansas, shall read as follows:

(1) Desecrating a cemetery or burial place is knowingly and without authorization of law by means other than by fire or explosive:

(a) Damaging , defacing , destroying, tearing down or removing any tomb, monument, memorial, marker, grave, vault, crypt gate, tree, shrub, plant, gate, door, fence, wall, post or railing, or any enclosure for the protection of such cemetery or burial place or any other property in a cemetery;

(b) Obliterating any grave, vault, niche or crypt.

(2) Subsection (1) shall apply if the property is damaged to the extent of less than one thousand dollars.

Section 2. The original of Section 5.16.010 of the Code of the City of Wichita, Kansas, is hereby repealed.

Section 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf

Director of Law

## **Agenda Item No. 36.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0667

TO: Mayor and City Council Members

SUBJECT: AMENDMENTS TO SECTION 6.04.035 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO CRUELTY TO ANIMALS.

INITIATED BY: Law Department

AGENDA: New Business

Recommendation: Approve the ordinance.

Background: The Kansas Legislature amended K.S.A. 21-4310, Cruelty to Animals, with SB 408 (“Magnum’s Law”), creating felony offenses for certain acts that have been classified as misdemeanor offenses. Felony offenses under the amended statute include the intentional and malicious killing, injuring, maiming, torturing, burning or mutilating of any animal. Also included in the amendments to state statute are recognized exceptions to animal cruelty, which includes normal or accepted veterinary practices.

Analysis: The amendments to City of Wichita Ordinance 6.04.035 must be passed, in order to comply with the mandated amendments to K.S.A. 21-4310. Municipal criminal ordinances cannot define as a misdemeanor, what is deemed to be a felony under state statute.

Financial Considerations: None.

Goal Impact: Provide a Safe and Secure Community. This amendment will allow the Police Department, Health Department, and Law Department to continue to charge and prosecute violations of Cruelty to Animals.

Legal Considerations: The City of Wichita Law Department drafted the amended ordinance and approved it as to form.

Recommendation/Actions: It is recommended that the City Council approve first reading of the ordinance.

Attachment: Ordinance.

AN ORDINANCE AMENDING SECTION 6.04.035 OF THE CODE OF THE CITY OF WICHITA, KANSAS,  
PERTAINING TO CRUELTY TO ANIMALS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1: 6.04.035 of the Code of the City of Wichita, Kansas, shall read as follows:

- (a) Cruelty to animals is:
  - (1) Intentionally causing any physical injury other than the following acts described in K.S.A. 21-4310(a)(1) and amendments thereto: intentionally and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;
  - (2) Recklessly causing physical injury to any animal;
  - (3) Intentionally abandoning or leaving any animal in any place without making provisions for its proper care;
  - (4) Having physical custody of any animal and intentionally failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal, or to carry any animal in or upon any vehicle in a cruel or inhumane manner. Any animal kept outside shall be provided with a structurally sound, weatherproof enclosure, large enough to accommodate the animal;
  - (5) For any person by any means to make accessible to any animal, with the intent to cause harm, any substance which has in any manner been treated or prepared with a harmful or poisonous substance, except that this section shall not prohibit the use of poisonous substances for the control of vermin of significance to the public health;
  - (6) Every operator of a motor vehicle or other self-propelled vehicle upon the streets and ways of the City, except emergency vehicles, shall immediately, upon injuring, striking, maiming or running down any animal, notify the police department of the location, and the police department will notify such agency as may be providing injury services;
  - (7) For any person to have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as hereinafter provided. A municipal court judge may order a person convicted under this section to turn the animal involved over to the health department. All such animals taken by the health department may be destroyed humanely as soon thereafter as is conveniently possible. This section shall not be construed to include veterinary hospitals or animals under active veterinary care;
  - (8) Intentionally using a wire, pole, stick, rope or any other object to cause any equine, bovine or swine to lose its balance or fall, for the purpose of sport or entertainment.
- (b) The provisions of this section shall not apply to:
  - (1) Normal or accepted veterinary practices;
  - (2) bona fide experiments carried on by commonly recognized research facilities;
  - (3) rodeo practices as described in the Professional Rodeo Cowboys' Association Rules Governing the Care and Treatment of Livestock at PRCA Sanctioned Rodeos;
  - (4) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer of a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
  - (5) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;



- (6) the killing or injury of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;
  - (7) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;
  - (8) laying an equine down for medical or identification purposes;
  - (9) normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a and amendments thereto; or
  - (10) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006.
- (c) As used in this section,
    - (1) "equine" means a horse, pony, mule, jenny, donkey, or hinny.
    - (2) "bovine" means a cow, calf, bull or steer.
    - (3) "swine" means a hog, shoat, piglet, boar, barrow, gilt or sow.
  - (d) Cruelty to animals as described in this section is a misdemeanor punishable by a fine of not more than \$2,500. or imprisonment of not more than 12 months, or any combination of such fine and imprisonment.

Section 2. The original of Section 6.04.035 of the Code of the City of Wichita, Kansas, is hereby repealed.

Section 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 27 day of June, 2006

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf  
Director of Law

## **Agenda Item No. 37.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0668

TO: Mayor and City Council Members

SUBJECT: AMENDMENTS TO SECTION 11.42.030 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO DRIVING WHILE LICENSE SUSPENDED, CANCELED OR REVOKED.

INITIATED BY: Law Department

AGENDA: New Business

Recommendation: Approve the ordinance.

Background: The Kansas Legislature, through the passage of SB 431 increased the penalty for Driving on a Suspended License, in violation of K.S.A. 8-262. For a third or subsequent conviction, it is mandated that a person spend a mandatory 90 day imprisonment and fined not less than \$1,500. The Court may order a person to spend 48 hours in the county jail, and the remainder of the 90 days may be served in work release or house arrest. Additionally, the Legislature amended the charge of driving while revoked, pursuant to K.S.A. 8-287, to reflect the increased penalty provisions for third or subsequent conviction.

Analysis: The amendments to 11.42.030 must be passed, in order to comply with the mandates of SB 431 amending K.S.A. 8-262 and K.S.A. 8-287. Municipal criminal ordinances cannot be less restrictive than state criminal statutes.

Financial Considerations: None.

Goal Impact: Provide a Safe and Secure Community. This amendment will allow the Police Department and Law Department to continue to charge and prosecute violations of driving on a suspended license and driving while a person's privileges to operate a motor vehicle have been revoked.

Legal Considerations: The City of Wichita Law Department drafted the amended ordinance and approved it as to form.

Recommendation/ Actions: It is recommended that the City Council approve first reading of the ordinance.

Attachment: Ordinance.

(First Published in The Wichita Eagle on \_\_\_\_\_)

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 11.42.030 DRIVING WHILE LICENSE SUSPENDED, CANCELED OR REVOKED.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. 11.42.030 of the Code of the City of Wichita, Kansas, shall read as follows:

(a) It is unlawful for any person within the city to commit any of the following acts:

(1) For any person to authorize or knowingly permit a motor vehicle owned by such person or under such person's control to be driven by any person who has no legal right to do so, or who does not have a valid driver's license;

(2) To operate a motor vehicle in violation of the restrictions on such person's driver's license.

(b) The clerk of the municipal court shall forward to the division a record of the conviction of any person in such court as soon as possible after such conviction on the following charges, the first four of which require a mandatory revocation or suspension of the license:

(1) Driving a vehicle while under the influence of intoxicating liquor or drugs;

(2) Conviction or forfeiture of bail upon three charges of reckless driving, all within the preceding twelve months;

(3) Failing to stop after an accident resulting in death or injury to another person and disclosing such person's identity at the scene of the accident;

(4) Operating a vehicle while the license of such person is suspended or revoked;

(5) The violation of this title or any other traffic ordinance of the city, or the forfeiture of bail therefore, except times of parking, and the judge of the municipal court, where, in the judge's opinion, the facts and circumstances warrant it, shall recommend to the division the suspension of the driver's license of the person so convicted.

(c) Any person who drives a motor vehicle on any street and/or alley in this city at a time when such person's privilege to do so is canceled, suspended or revoked or while such person's privilege to obtain a driver's license is suspended or revoked pursuant to K.S.A. 8- 252a, and amendments thereto, shall be guilty of a misdemeanor.

(d) Upon a first conviction for a violation of subsection (c), and except as provided by subsection (e), punishment by imprisonment of not more than six months, and a fine of not more than one thousand dollars shall be imposed. Upon a first conviction of subsection (c), such person shall be sentenced to at least five days' imprisonment and fined at least one hundred dollars. Upon a second conviction of subsection (c), and except as provided by subsection (e), punishment by imprisonment of not more than one year, and a fine of not more than two thousand five hundred dollars shall be imposed. Such person shall not be eligible for parole until completion of five days' imprisonment. Such mandatory fine imposed shall be at least two hundred fifty dollars. Upon a third or subsequent conviction of subsection (c), and except as provided by subsection (e), punishment by imprisonment of not more than one year, and a fine of not more than two thousand five hundred dollars shall be imposed. The person convicted shall be sentenced to not less than 90 days imprisonment and fined not less than one thousand five hundred dollars. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least ninety days' imprisonment. The ninety days' imprisonment mandated by this subsection may be served in a work release program only after such person has served forty-eight consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The Court may place the person convicted under a house arrest program to serve the remainder of the minimum sentence only after such person has served forty-eight consecutive hours' imprisonment.

(e) Except as otherwise provided by subsection (c), if a person : (1) Is convicted of a violation of subsection (c) committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of Section 11.38.150 of this code, and amendments thereto, or any law of the state, ordinance of any city or law of another state which ordinance or law prohibits the acts prohibited by Section 11.38.150, and is or has been convicted of a violation of Section 11.38.150 of this code, and amendments thereto, or of any law of this state, ordinance of any city or law of another state which ordinance or law prohibits

the acts prohibited by Section 11.38.150; and (2) is or has been also convicted of a violation of 11.38.150, and amendments thereto, or K.S.A. 8-1567, and amendments thereto, or of any municipal ordinance or law of any other state, which ordinance or law prohibits the acts prohibited by 11.38.150, committed while the person's privilege to drive or privilege to obtain a driver's license was so suspended or revoked, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least ninety days imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

(f) For the purposes of determining whether a conviction is a first, second, third, or subsequent conviction in sentencing under subsection (c) "conviction" includes a conviction of a violation of any ordinance of any city or a law of this or any other state , or resolution of any county, which is in substantial conformity with subsection (c).

(g) It shall be unlawful to operate a motor vehicle in this City while one's driving privileges are revoked pursuant to K.S.A. 8-286 and amendments thereto. Upon a first conviction the person shall be sentenced up to one year in jail and up to a two thousand five hundred dollar fine. Such person shall be sentenced to at least five days imprisonment and fined at least one hundred dollars. Upon a second conviction of subsection (g), such person shall be sentenced to punishment by imprisonment of not more than one year, and a fine of not more than two thousand five hundred dollars. Such person shall not be eligible for parole until completion of five days' imprisonment. Such mandatory fine imposed shall be at least two hundred fifty dollars. Any person found guilty of a third or subsequent conviction of this section shall be sentenced to punishment of not more than one year in jail and a two thousand five hundred dollar fine. The person convicted shall be sentenced to not less than ninety days imprisonment and fined not less than one thousand five hundred dollars. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least ninety days' imprisonment. The ninety days' imprisonment mandated by this subsection may be served in a work release program only after such person has served forty-eight consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The Court may place the person convicted under a house arrest program to serve the remainder of the minimum sentence only after such person has served forty-eight consecutive hours' imprisonment.

(h) For the purposes of determining whether a conviction is a first, second, third, or subsequent conviction in sentencing under subsection (g) "conviction" includes a conviction of a violation of any ordinance of any city or a law of this or any other state , or resolution of any county, which is in substantial conformity with subsection (g).

Section 2. The original of Section 11.42.030 of the Code of the City of Wichita, Kansas, is hereby repealed.

Section 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf  
Director of Law

## **Agenda Item . 38.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0669

TO: Mayor and City Council

SUBJECT: WaterWalk Developer Agreement Amendments (District I)

INITIATED BY: City Manager's Office

AGENDA: New Business

Recommendations: Approve the amendments and resolution and place ordinances on first reading.

Background: In September 2002, the City of Wichita entered into a development agreement with WaterWalk LLC to develop the East Bank Redevelopment District, which was established in 1995. The Development Agreement was amended in December 2003 and October 2004.

The 2003 amendments to the Development Agreement (1st Amendment) requested the following changes:

- q The development of a destination retail store to be financed with STAR bonds, a tax increment financing mechanism to capture new state and local sales tax revenues generated by the project as the funding source to repay bonds used to finance public improvements and infrastructure.
- q The City had to amend the East Bank Redevelopment District boundaries to include the River Corridor Project area in order to make use of STAR bonds. This allowed the City to permanently finance River Corridor Project improvements with STAR bonds while making available general obligation bond financing for the destination retailer portion of the WaterWalk Project.

On September 9, 2004, WaterWalk LLC ("Developer") announced that Gander Mountain, Inc. would anchor the WaterWalk development as the destination retail store. The City Council endorsed the Developer's selection on September 21, 2004. The City Council directed staff to prepare the necessary ordinances and documents to amend the Development Agreement (2nd Amendment) per the following:

- q Provide City funding for a portion of the costs to develop the destination retail store on a design-build concept and associated public improvements. This required an ordinance invoking Charter Ordinance No. 177 to be voted on by 2/3-majority vote to use design-build without public bidding to construct improvements paid from public funds.
- q Redefine the project area that identifies the Destination Retailer Improvements within the project area. This was depicted on a site map attached to the 2nd amendment as Exhibit 15, except improvements related to streets and utilities. The site included the destination retailer building and site improvements, surface parking lots and a pedestrian bridge across the Arkansas River.
- q The 2nd amendment applied to the terms and conditions governing the construction of the Private Improvements to the construction of Destination Retailer Improvements. Under the Development Agreement, Private Improvements, which are designed, constructed and financed entirely by the developer, may be constructed pursuant to design-build contracts.
- q The City Council authorized the construction of Wichita and Water Streets, as well as the new interior street that connected the destination retailer building to Main Street as Public Improvements for the project area.
- q Revision of the Project Development Budget was contained in Exhibit 4. The budget for STAR Bond Funding was replaced by the budget for the Destination Retailer Improvements totaling \$14,152,300. It was noted that this change included \$2.6 million that represented the imputed value of the land and was not an actual

cost of the project. It was also noted that the cost of street improvements in the Destination Retailer Improvements Site were included in the budget for Public Improvements. In addition, the Public Improvements budget was increased by \$1 million to enhance the public art component, as approved by the City Council on September 21, 2004.

q A minor change was made in Exhibit 5, the Phasing Schedule for the Project. The schedule called for the Developer and City to hold a Construction Phase Closing on or before 270 days following the commencement of design work on Public Improvements. That time frame had expired; however, the Developer were expected to have the closing before December 31, 2004. Exhibit 5 was changed accordingly.

q Another minor change was the modification of the provision relating to the use of minority and women owned businesses to reflect the Developer's intention to provide \$3,000,000 in work to such firms as part of the Destination Retailer Improvements.

q Another change to the Development Agreement required that Charter Ordinance No. 192 be amended to allow publicly-held companies, under certain circumstances, to sell second-hand merchandise without requiring every shareholder in the company to individually qualify for the second-hand dealer's license, and also allows stock to transfer. This charter ordinance amended Charter Ordinance No. 192.

Analysis: The City Council is being asked to amend the Development Agreement for the 3rd time to allow certain publicly-financed improvements associated with Building C, the amphitheatre, hardscape improvements, and parking structure to be constructed by design-build, in compliance with City and State laws, which generally require public bidding. City Charter Ordinance No. 177 provides a procedure for waiving the bid law requirements when a project is developed under the terms of a preferred developer arrangement, such as the case with WaterWalk LLC. In addition to amending the Development Agreement for the 3rd time, the procedure requires the City Council to adopt an ordinance specifically approving the construction under the provisions of Charter Ordinance No. 177, which must be approved by a super-majority vote. Proposed amendments to the Development Agreement, and the various attachments and exhibits are intended to conform the agreement provisions and allow the project to proceed as required. The 3rd amendment to the Development Agreement includes the following documents that have been mutually agreed upon by the Developers and the City representatives:

q Development Agreement – 3rd Amendment

q Attachment A – Location of Building C, including parking structure

q Attachment B – Location of Amphitheatre

q Attachment C – Revised Master Plan that was approved on December 13, 2005

q Attachment D – WaterWalk Parking District attachment to Exhibit 9

q Exhibit 1 – Scope of Development – deletes reference to the waterway improvements in Project Goals

q Exhibit 3 – Revised Legal Description – deletes reference to pedestrian bridge

q Exhibit 4 – Public Improvement Budget – updates costs based on current project design

q Exhibit 5 – Phasing Schedule – corrects reference to Building C parking structure

q Exhibit 6 - Ground Lease – clean up of legal language

q Exhibit 9 – Parking District Agreement will include Attachment D in reference to WaterWalk Parking District

q Exhibit 10 - Maintenance Agreement Allocation of Responsibilities - clarifies the City and Developers responsibilities within the project area. The Statement of City Practices will be a reference document for this amendment.

The following items are included with this green sheet in support of the Developers commitment to Wichita Area Association of Realtors (WAAR) who plan to initiate construction of their new building by September 2006:

q Form of assignment for WAAR

q Form of WAAR Tract Ground Lease, which is similar to Development Agreement Exhibit 6

q WAAR Shared Footing Agreement

q Monument Sign Easement

q Confirmation of Public Parking Use

Financial Considerations: The total cost of the public improvements financed by the City remains at \$36,800,000. Of that amount \$6.5 million was previously programmed for Building C parking structure. The developers have requested that this amount increase by \$400,000 for an increase up to \$6.9 million for the parking structure. This increase cost will be paid out of the project contingency line item. This change is reflected in Exhibit 4 to the Development Agreement. Additionally the bonding resolution will be amended to include \$860,000 for administrative cost as part of the overhead costs for the project. A home rule-bonding ordinance is needed to authorize the combined \$13,900,000 in economic development financing for the Destination Restaurant Improvements, Building C Parking Garage Improvements and Destination Retailer Improvements.

There is a Parking Agreement component to the Development Agreement that will be amended to provide for the imposition of parking fees based upon required parking spaces to be paid by the developers. The parking fees will continue to be paid at the rate of \$10 per stall per month until the revenues received by the City and property tax revenue paid on the structure will amortize \$4.0 million of the City's funding. This provides definition to Exhibit 9 the Parking Agreement of the Development Agreement. There is no impact on the overall public improvement budget. The City's debt service fund may have to absorb any shortfall in parking revenues, however, these funds will be eventually replaced by continuation of the \$10 per stall per month parking fee.

Goal Impact: Economic Vitality and Affordable Living. Approving the Development Agreement and ordinances related to the agreement, will illustrate the City Council's commitment to downtown redevelopment and economic development initiatives in a core area.

Legal Considerations: The 3rd amendment to the WaterWalk Development Agreement, the non-bid ordinance, and the home rule ordinance have been drafted and approved as to form by the Law Department. The non-bid ordinance requires a 2/3 vote for approval following the public hearing. The City Council also needs to adopt a resolution to reduce the amount of the bonds to finance public improvements to \$22,900,000 and increase the bonds to finance economic development grants for construction of the Destination Restaurant Improvements, Building C Parking Garage Improvements and Destination Retailer Improvements to \$13,900,000. The total amount of bonding remains at \$36,800,000, exclusive of administrative costs up to \$860,000 and cost of interest on borrowed money. The resolution has been prepared and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council:

1. Close the public hearing.
2. Approve first reading of the ordinance authorizing the development agreement amendments and approving construction pursuant to the provisions of Charter Ordinance no. 177.
3. Approve the Third Amendment to the Development Agreement, subject to the adoption of the ordinance authorizing its execution.
4. Approve first reading of the home rule ordinance for the financing of the Destination Restaurant Improvements, Destination Retailer Improvements and Building C. Parking Garage Improvements
5. Set June 27, 2006 as the date for second reading and adoption of the ordinances.
6. Adopt amending bonding resolution.

## **Agenda Item No. 38a.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0681

TO: Mayor and City Council

SUBJECT: Staffing for Adequate Fire and Emergency Response (SAFER) Grant  
(All Districts)

INITIATED BY: Wichita Fire Department

AGENDA: New Business

Recommendation: Approve the grant application and the necessary budget transfers.

Background: Created by congress in 2003, the SAFER grant is designed to provide funding to communities with career, volunteer and combination fire departments to “meet industry minimum standards prescribed by National Fire Protection Association (NFPA) Standards 1710 (Section 5.2.4.2 – Initial Full Alarm Assignment Capability) and 1720 and to attain 24-hour staffing that will provide adequate protection from fire and fire-related hazards. For the first time, Congress made an appropriation of \$65 million in SAFER grant funds. There are two activities in which applicants may request funding under the SAFER grant. Career fire departments may only apply for funding in the “Hiring of Firefighters Activity.” These newly hired positions must be in addition to authorized and funded active firefighter positions.

Analysis: The Fire Department has prepared a \$6,896,448 grant application to hire 24 new firefighters. The SAFER grant will pay up to \$2,484,000 and the City match will be \$4,412,448 over the five-year life of the grant. The SAFER grant requires the City match an increasing proportion of firefighter salaries over a four-year period and, in the fifth year of the grant, the City must absorb the entire cost of any positions funded as a result of the grant. Based on a total funding cap of \$103,500 per position over five years, the maximum annual Federal share of funds that the City can receive under SAFER for salary and benefits for newly hired firefighters will not exceed the lesser of the following:

Year One: 90% of the actual costs or \$37,260.  
Year Two: 80% of the actual costs or \$33,120.  
Year Three: 50% of the actual costs or \$20,700.  
Year Four: 30% of the actual costs or \$12,420.  
Year Five: No Federal share, all costs funded by the City.

If the SAFER grant is approved, the City will receive the maximum grant amount per firefighter. Additional costs the City would incur for each of the 24 new firefighters would be the cost of their physicals, uniforms, recruit manuals, and bunker gear.

Financial Considerations: The base salary and benefit cost to hire 24 new firefighters and pay their salaries over a five year period is \$6,896,448. If approved, the \$6,896,448 grant application would require a local match of \$4,412,448, with \$2,484,000 funded through the SAFER Grant Program over the five-year life of the grant. It is recommended that the City use the proposed funding for seven new firefighters in the 2007 budget to meet the



local grant match for 24 firefighters. If funded, the grant will enable the City to place more firefighters on the streets sooner. The City will use the funding for 17 firefighters in the proposed 2008 budget to offset the cost for future years.

Legal Considerations: None.

Recommendations/Actions: It is recommended that the City Council approve the grant application, authorize the necessary signatures, and approve any necessary budget transfers.



## **Agenda Item No. 38B.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0682

TO: Mayor and City Council

SUBJECT: IRB Amendments & Partial Purchase Option – Learjet (District V)

INITIATED BY: Law Department

AGENDA: New Business

Recommendations: Approve first reading of the ordinance approving the Tenth Supplemental Trust Indenture, Tenth Supplemental Lease and Special Warranty Deed.

Background: The City has a number of outstanding IRB Series issued to finance facilities for the benefit of Learjet from 1996 through 2005. Learjet no longer needs all of the space in its Buildings 11 and 12, and so desires to buy these buildings and an asphalt/concrete parking lot out of the IRB project and sell them to a third party. Learjet also wishes to buy from the project and sell at auction several pieces of equipment it no longer needs. The list of machinery is attached as Exhibit 1 hereto, and the legal description of the real property at issue is attached as Exhibit 2. A fire pump and some modular furniture associated with Building 11 will also be left in place and included with the purchase of that building. Concurrently, Learjet proposes to call, redeem and retire \$3,259,739.70 in outstanding bonds that were used to finance the purchased assets.

Analysis: Technical amendments are necessary to the existing IRB Lease and Indenture to facilitate the desired partial exercise of purchase option and partial call and redemption of bonds within specific series. Bond Counsel has prepared a Tenth Supplemental Trust Indenture and Tenth Supplemental Lease for this purpose, as well as an Ordinance authorizing these supplemental documents and a Special Warranty Deed (prepared by Law Department) and any other instruments necessary for implementation of the company's purchase option. The City has already received payment of the \$1,000 purchase option price, and Learjet, as both Tenant and Bondholder, is in a position to supply all necessary Tenant and Bondholder consents in connection with the document amendments and purchase option. Learjet has requested that the City waive the notice period provided for the exercise of purchase options under the Lease, to whatever extent such may be necessary to meet the existing calendar for Learjet's July equipment auction.

**Financial Considerations:** The purchase price is \$1,000 and other considerations as listed under the provision of the Lease (as it will be amended) including all payments necessary to redeem and retire the outstanding bonds that financed the purchased assets. This price includes without limitations, the payment of the outstanding principal, interest, and all other expenses of redemption for such bonds, and trustee fees, after the deduction of any amounts provided for in the Lease Agreement and available for such redemption.

**Legal Considerations:** The City Attorney's Office has prepared the form of the Special Warranty Deed and has reviewed and approved the form of the Ordinance, Tenth Supplemental Lease and Tenth Supplemental Indenture prepared by Bond Counsel.

**Goal Impact:** Economic Vitality and Quality of Life. Cooperating with Tenants in their desired use and disposition of IRB-financed assets helps to maintain the flexibility of the City's IRB program and its utility to Tenants, by minimizing burdens and restrictions that might otherwise tie up the financed property unnecessarily.

**Recommendations/Actions:** It is recommended that City Council approve the partial bond call and the Tenant's request to waive notice, and approve first reading of the Ordinance approving the Tenth Supplemental Indenture, Tenth Supplemental Lease, and Special Warranty Deed.

**Attachments:** Exhibit 1 Equipment List; Exhibit 2 Legal Description; Ordinance; Tenth Supplemental Indenture; Tenth Supplemental Lease; Special Warranty Deed.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A TENTH SUPPLEMENTAL TRUST INDENTURE BY AND BETWEEN THE BANK OF NEW YORK TRUST COMPANY, N.A., ST. LOUIS, MISSOURI, AS TRUSTEE; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A TENTH SUPPLEMENT LEASE BY AND BETWEEN THE CITY AND LEARJET, INC., IN CONNECTION WITH THE PROJECT FINANCED WITH THE CITY'S TAXABLE INDUSTRIAL REVENUE BONDS, SERIES XII, 1996, SERIES XIX, 1997, SERIES XVI, 1998, SERIES IV, 1999, SERIES VIII, 2000, SERIES XV, 2001, SERIES VII, 2002, SERIES XII, 2003, SERIES VII, 2004 AND SERIES IX, 2005 (LEARJET INC.).

WHEREAS, the City of Wichita, Kansas (the "Issuer"), is authorized and empowered pursuant to the provisions of K.S.A. 12 1740 to 12 1749d, inclusive, as amended (the "Act"), to acquire, construct, install and equip certain facilities (as defined in the Act) for the stated statutory purposes, to enter into lease and lease purchase agreements with any person, firm or corporation for said projects, and to issue revenue bonds for the purpose of paying the cost of such facilities; and

WHEREAS, pursuant to the Act, the Governing Body of the Issuer has heretofore indicated the Issuer's intent to issue taxable industrial revenue bonds (Learjet Inc.), in the original aggregate principal amount not to exceed \$86,000,000, pursuant to a Letter of Intent dated September 10, 1996 (the "Letter of Intent"), all for the purpose of paying the cost of constructing, installing and equipping certain manufacturing facilities (the "Project"); and

WHEREAS, in accordance with the Letter of Intent and pursuant to the Act, the Governing Body of the Issuer passed Ordinance No. 43-335, authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XII, 1996 (Learjet Inc.) (the "Series 1996 Bonds"), in the principal amount of \$12,240,000 pursuant to a Trust Indenture dated as of December 1, 1996 (the "Original Indenture"), by and between the Issuer and Boatmen's National Bank, succeeded in interest by Intrust Bank, N.A., and further succeeded in interest by The Bank of New York Trust Company, N.A., St. Louis, Missouri, as trustee (the "Trustee"), for the purpose of financing the construction, installing and equipping of a portion of the Project; and

WHEREAS, in connection with the issuance of the Series 1996 Bonds, the Issuer, as lessor, entered into a Lease dated as of December 1, 1996 (the "Original Lease"), for the Project with Learjet, Inc., a Delaware corporation duly qualified to do business in the State of Kansas (the "Tenant"), as lessee; and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 43-661 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XIX, 1997 (Learjet Inc.) (the "Series 1997 Bonds"), in the principal amount of \$9,595,165 pursuant to the terms of the First Supplemental Trust Indenture dated as of December 1, 1997 (the "First Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 1997 Bonds, the City and the Tenant entered into a First Supplemental Lease dated as of December 1, 1997 (the "First Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 44-109 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XVI, 1998 (Learjet Inc.) (the "Series 1998 Bonds"), in the principal amount of \$5,755,000 pursuant to the terms of the Second Supplemental Trust Indenture dated as of December 1, 1998 (the "Second Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 1998 Bonds, the City and the Tenant entered into a Second Supplemental Lease dated as of December 1, 1998 (the "Second Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 44-438 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XV, 1999 (Learjet Inc.) (the "Series 1999 Bonds"), in the principal amount of \$6,835,088 pursuant to the terms of the Third Supplemental Trust Indenture dated as of December 1, 1999 (the "Third Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 1999 Bonds, the City and the Tenant entered into a Third Supplemental Lease dated as of December 1, 1999 (the "Third Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 44-823 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series VIII, 2000 (Learjet Inc.) (the "Series 2000 Bonds"), in the principal amount of \$16,442,500 pursuant to the terms of the Fourth Supplemental Trust Indenture dated as

of December 1, 2000 (the “Fourth Supplemental Indenture”), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2000 Bonds, the City and the Tenant entered into a Fourth Supplemental Lease dated as of December 1, 2000 (the “Fourth Supplemental Lease”); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 45-154 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XV, 2001 (Learjet Inc.) (the “Series 2001 Bonds”), in the principal amount of \$21,441,000 pursuant to the terms of the Fifth Supplemental Trust Indenture dated as of December 1, 2001 (the “Fifth Supplemental Indenture”), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2001 Bonds, the City and the Tenant entered into a Fifth Supplemental Lease dated as of December 1, 2001 (the “Fifth Supplemental Lease”); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 45-515 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series VII, 2002 (Learjet Inc.) (the “Series 2002 Bonds”), in the principal amount of \$4,295,000 pursuant to the terms of the Sixth Supplemental Trust Indenture dated as of December 1, 2002 (the “Sixth Supplemental Indenture”), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2002 Bonds, the City and the Tenant entered into a Sixth Supplemental Lease dated as of December 1, 2002 (the “Sixth Supplemental Lease”); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 45-491 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XII, 2003 (Learjet Inc.) (the “Series 2003 Bonds”), in the principal amount of \$925,000 pursuant to the terms of the Seventh Supplemental Trust Indenture dated as of December 1, 2003 (the “Seventh Supplemental Indenture”), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2003 Bonds, the City and the Tenant entered into a Seventh Supplemental Lease dated as of December 1, 2003 (the “Seventh Supplemental Lease”); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 46-415 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series VII, 2004 (Learjet Inc.) (the “Series 2004 Bonds”), in the principal amount of \$2,780,000 pursuant to the terms of the Eighth Supplemental Trust Indenture dated as of December 1, 2004 (the “Eighth Supplemental Indenture”), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2004 Bonds, the City and the Tenant entered into a Eighth Supplemental Lease dated as of December 1, 2004 (the “Eighth Supplemental Lease”); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 46-863 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series IX, 2005 (Learjet Inc.) (the “Series 2005 Bonds”), in the principal amount of \$3,122,000 pursuant to the terms of the Ninth Supplemental Trust Indenture dated as of December 1, 2005 (the “Ninth Supplemental Indenture”), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2005 Bonds, the City and the Tenant entered into a Ninth Supplemental Lease dated as of December 1, 2005 (the “Ninth Supplemental Lease”); and

WHEREAS, the Series 1996 Bonds, the Series 1997 Bonds, the Series 1998 Bonds, the Series 1999 Bonds, the Series 2000 Bonds, the Series 2001 Bonds, the Series 2002 Bonds, the Series 2003 Bonds, the Series 2004 Bonds and the Series 2005 Bonds are herein collectively referred to as the “Bonds”; and

WHEREAS, the Original Indenture, the First Supplemental Indenture, the Second Supplemental Indenture, the Third Supplemental Indenture, the Fourth Supplemental Indenture, the Fifth Supplemental Indenture, the Sixth Supplemental Indenture, the Seventh Supplemental Indenture, the Eighth Supplemental Indenture and the Ninth Supplemental Indenture are herein collectively referred to as the “Indenture”; and

WHEREAS, the Original Lease, the First Supplemental Lease, the Second Supplemental Lease, the Third Supplemental Lease, the Fourth Supplemental Lease, the Fifth Supplemental Lease, the Sixth Supplemental Lease, the Seventh Supplemental Lease, the Eighth Supplemental Lease and the Ninth Supplemental Lease are herein collectively referred as the “Lease”; and

WHEREAS, the Issuer has received a request from the Tenant to purchase a portion of the Project (the “Purchased Property”) financed with the a portion of the proceeds of the Bonds; and

WHEREAS, the Tenant has advised that proceeds of the Bonds outstanding in the principal amount of \$3,269,095.72 were used to finance the construction, installing and equipping of the Purchased Property and has requested Bonds in said principal amount be called for redemption prior to maturity; and

WHEREAS, in order to implement the Tenant's requests it is necessary and desirable to enter into a Tenth Supplemental Trust Indenture (the "Tenth Supplemental Indenture") and a Tenth Supplemental Lease (the "Tenth Supplemental Lease") to permit the requested purchase by the Tenant of the Purchased Property and the early redemption of the portion of the Bonds which financed the construction, installing and equipping of the Purchased Property; and

WHEREAS, pursuant to Article XI and Article XII of the Indenture, any such amendment of the Indenture and the Lease requires the consent of the owners of the Bonds, the Tenant, the Issuer and the Trustee; and

WHEREAS, Learjet, Inc., a Delaware corporation, is 100% owner (the "Bondowner") of the Bonds outstanding; and

WHEREAS, the Bondowner, the Trustee and the Tenant have or will consent to the requested amendments; and  
NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Approval of the Documents. The Governing Body of the Issuer hereby deems it desirable and hereby approves and authorizes the proposed amendment of the Indenture and the Lease, contingent upon receipt of all necessary approvals and consents and the compliance with all requirements of the Indenture, the Lease and other Bond documents, and the Mayor or Vice Mayor is hereby authorized and directed to execute and deliver the Tenth Supplemental Indenture, the Tenth Supplemental Lease, a Special Warranty Deed (the "Special Warranty Deed") conveying the Purchased Property to the Tenant, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance (copies of said documents shall be filed in the records of the Issuer) for and on behalf of and as the act and deed of the Issuer. The City Clerk or Deputy City Clerk is hereby authorized and directed to attest to and affix the seal of the Issuer to the Tenth Supplemental Indenture, the Tenth Supplemental Lease, the Special Warranty Deed and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 2. Further Authority. The Issuer shall, and the officials, agents and employees of the Issuer are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and the duties of the Issuer under the Indenture, as amended by the Tenth Supplemental Indenture and the Lease, as amended by the Tenth Supplemental Lease.

Section 3. Effective Date. This Ordinance shall take effect and be in full force and effect from and after its passage and approval by the Governing Body of the Issuer and its publication once in the official newspaper of the Issuer.

PASSED by the Governing Body of the City of Wichita, Kansas this \_\_\_\_ day of June, 2006.  
CITY OF WICHITA, KANSAS

Carlos Mayans, Mayor

(SEAL)

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, City Attorney

CITY OF WICHITA KANSAS  
AS ISSUER  
AND

THE BANK OF NEW YORK TRUST COMPANY N.A.  
ST. LOUIS, MISSOURI  
AS TRUSTEE

TENTH SUPPLEMENTAL TRUST INDENTURE

DATED AS OF JULY 1, 2006

TAXABLE INDUSTRIAL REVENUE BONDS  
(LEARJET, INC.)

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TENTH SUPPLEMENTAL TRUST INDENTURE

THIS TENTH SUPPLEMENTAL TRUST INDENTURE dated as of July 1, 2006 (the "Tenth Supplemental Trust Indenture"), by and between the City of Wichita, Kansas, a municipal corporation duly organized and existing under the laws of the State of Kansas (the "Issuer") and The Bank of New York Trust Company, N.A., a national banking association duly organized and existing under the laws of the United States, with its office located in the City of St. Louis, Missouri (as successor trustee to Intrust Bank, N.A., Wichita, Kansas), as trustee (the "Trustee").

W I T N E S S E T H:

WHEREAS, the Issuer is authorized and empowered pursuant to the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the "Act"), to acquire, construct, install and equip certain facilities (as defined in the Act) for the stated statutory purposes, to enter into lease and lease purchase agreements with any person, firm or corporation for said projects, and to issue revenue bonds for the purpose of paying the cost of such facilities; and

WHEREAS, pursuant to the Act, the Governing Body of the Issuer has heretofore indicated the Issuer's intent to issue taxable industrial revenue bonds (Learjet Inc.), in the original aggregate principal amount not to exceed \$86,000,000, pursuant to a Letter of Intent dated September 10, 1996 (the "Letter of Intent"), all for the purpose of paying the cost of constructing, installing and equipping certain manufacturing facilities (the "Project"); and

WHEREAS, in accordance with the Letter of Intent and pursuant to the Act, the Governing Body of the Issuer passed Ordinance No. 43-335, authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XII, 1996 (Learjet Inc.) (the "Series 1996 Bonds"), in the principal amount of \$12,240,000 pursuant to a Trust Indenture dated as of December 1, 1996 (the "Original Indenture"), by and between the Issuer and Boatmen's



National Bank, succeeded in interest by Intrust Bank, N.A., and further succeeded in interest by The Bank of New York Trust Company, N.A., St. Louis, Missouri, as trustee (the "Trustee"), for the purpose of financing the construction, installing and equipping of a portion of the Project; and

WHEREAS, in connection with the issuance of the Series 1996 Bonds, the Issuer, as lessor, entered into a Lease dated as of December 1, 1996 (the "Original Lease"), for the Project with Learjet, Inc., a Delaware corporation duly qualified to do business in the State of Kansas (the "Tenant"), as lessee; and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 43-661 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XIX, 1997 (Learjet Inc.) (the "Series 1997 Bonds"), in the principal amount of \$9,595,165 pursuant to the terms of the First Supplemental Trust Indenture dated as of December 1, 1997 (the "First Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 1997 Bonds, the City and the Tenant entered into a First Supplemental Lease dated as of December 1, 1997 (the "First Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 44-109 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XVI, 1998 (Learjet Inc.) (the "Series 1998 Bonds"), in the principal amount of \$5,755,000 pursuant to the terms of the Second Supplemental Trust Indenture dated as of December 1, 1998 (the "Second Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 1998 Bonds, the City and the Tenant entered into a Second Supplemental Lease dated as of December 1, 1998 (the "Second Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 44-438 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XV, 1999 (Learjet Inc.) (the "Series 1999 Bonds"), in the principal amount of \$6,835,088 pursuant to the terms of the Third Supplemental Trust Indenture dated as of December 1, 1999 (the "Third Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 1999 Bonds, the City and the Tenant entered into a Third Supplemental Lease dated as of December 1, 1999 (the "Third Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 44-823 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series VIII, 2000 (Learjet Inc.) (the "Series 2000 Bonds"), in the principal amount of \$16,442,500 pursuant to the terms of the Fourth Supplemental Trust Indenture dated as of December 1, 2000 (the "Fourth Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2000 Bonds, the City and the Tenant entered into a Fourth Supplemental Lease dated as of December 1, 2000 (the "Fourth Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 45-154 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XV, 2001 (Learjet Inc.) (the "Series 2001 Bonds"), in the principal amount of \$21,441,000 pursuant to the terms of the Fifth Supplemental Trust Indenture dated as of December 1, 2001 (the "Fifth Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2001 Bonds, the City and the Tenant entered into a Fifth Supplemental Lease dated as of December 1, 2001 (the "Fifth Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 45-515 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series VII, 2002 (Learjet Inc.) (the "Series 2002 Bonds"), in the principal amount of \$4,295,000 pursuant to the terms of the Sixth Supplemental Trust Indenture dated as of December 1, 2002 (the "Sixth Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2002 Bonds, the City and the Tenant entered into a Sixth Supplemental Lease dated as of December 1, 2002 (the "Sixth Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 45-491 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XII, 2003 (Learjet Inc.) (the "Series 2003 Bonds"), in the principal amount of \$925,000 pursuant to the terms of the Seventh Supplemental Trust Indenture dated as of December 1, 2003 (the "Seventh Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2003 Bonds, the City and the Tenant entered into a Seventh Supplemental Lease dated as of December 1, 2003 (the “Seventh Supplemental Lease”); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 46-415 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series VII, 2004 (Learjet Inc.) (the “Series 2004 Bonds”), in the principal amount of \$2,780,000 pursuant to the terms of the Eighth Supplemental Trust Indenture dated as of December 1, 2004 (the “Eighth Supplemental Indenture”), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2004 Bonds, the City and the Tenant entered into a Eighth Supplemental Lease dated as of December 1, 2004 (the “Eighth Supplemental Lease”); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 46-863 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series IX, 2005 (Learjet Inc.) (the “Series 2005 Bonds”), in the principal amount of \$3,122,000 pursuant to the terms of the Ninth Supplemental Trust Indenture dated as of December 1, 2005 (the “Ninth Supplemental Indenture”), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2005 Bonds, the City and the Tenant entered into a Ninth Supplemental Lease dated as of December 1, 2005 (the “Ninth Supplemental Lease”); and

WHEREAS, the Series 1996 Bonds, the Series 1997 Bonds, the Series 1998 Bonds, the Series 1999 Bonds, the Series 2000 Bonds, the Series 2001 Bonds, the Series 2002 Bonds, the Series 2003 Bonds, the Series 2004 Bonds and the Series 2005 Bonds are herein collectively referred to as the “Bonds”; and

WHEREAS, the Original Indenture, the First Supplemental Indenture, the Second Supplemental Indenture, the Third Supplemental Indenture, the Fourth Supplemental Indenture, the Fifth Supplemental Indenture, the Sixth Supplemental Indenture, the Seventh Supplemental Indenture, the Eighth Supplemental Indenture, the Ninth Supplemental Indenture and this Tenth Supplemental Indenture are herein collectively referred to as the “Indenture”; and

WHEREAS, the Original Lease, the First Supplemental Lease, the Second Supplemental Lease, the Third Supplemental Lease, the Fourth Supplemental Lease, the Fifth Supplemental Lease, the Sixth Supplemental Lease, the Seventh Supplemental Lease, the Eighth Supplemental Lease, the Ninth Supplemental Lease and the hereinafter defined Tenth Supplemental Lease are herein collectively referred as the “Lease”; and

WHEREAS, the Issuer has received a request from the Tenant to purchase a portion of the Project (the “Purchased Property”) financed with a portion of the proceeds of the Bonds; and

WHEREAS, the Tenant has advised that proceeds of the Bonds outstanding in the principal amount of \$3,269,095.72 were used to finance the construction, installing and equipping of the Purchased Property and has requested Bonds in said principal amount be called for redemption prior to maturity; and

WHEREAS, in order to implement the Tenant’s requests it is necessary and desirable to enter into this Tenth Supplemental Trust Indenture and a Tenth Supplemental Lease (the “Tenth Supplemental Lease”) to permit the requested purchase by the Tenant of the Purchased Property and the early redemption of the portion of the Bonds which financed the construction, installing and equipping of the Purchased Property; and

WHEREAS, pursuant to Article XI and Article XII of the Indenture, any such amendment of the Indenture and the Lease requires the consent of the owners of the Bonds, the Tenant, the Issuer and the Trustee; and

WHEREAS, Learjet, Inc., a Delaware corporation, is 100% owner (the “Bondowner”) of the Bonds outstanding; and

WHEREAS, the Bondowner, the Trustee and the Tenant have consented to the requested amendments; and

WHEREAS, pursuant to Ordinance No. \_\_\_\_\_, the Issuer has approved the requested amendments;

NOW, THEREFORE, THIS TENTH SUPPLEMENTAL TRUST INDENTURE WITNESSETH.

## ARTICLE I

### DEFINITIONS

Section 1.01. Definitions. In addition to words and terms defined in the Original Lease, as amended and in the Original Indenture, as amended, the following words and terms used in this Tenth Supplemental Trust Indenture shall have the following meanings, unless some other meaning is plainly intended:

Section 1.02. General Rules of Construction. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing person shall include

individuals, corporations, partnerships, joint ventures, associations, joint stock companies, trusts, unincorporated organizations and governments and any agency or political subdivision thereof.

The words "herein," "hereby," "hereunder," "hereof," "hereto," "hereinbefore," "hereinafter" and other equivalent words refer to this Tenth Supplemental Trust Indenture and not solely to the particular article, section, paragraph or subparagraph hereof in which such word is used.

Reference herein to a particular article or a particular section, exhibit, schedule or appendix shall be construed to be a reference to the specified article or section hereof or exhibit, schedule or appendix hereto unless the context or use clearly indicates another or different meaning or intent.

Whenever an item or items are listed after the word "including," such listing is not intended to be a listing that excludes items not listed.

The table of contents, captions and headings in this Tenth Supplemental Trust Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Tenth Supplemental Trust Indenture.

Section 1.03. Execution in Counterparts. This Tenth Supplemental Trust Indenture May be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same instrument.

Section 1.04. Severability. If any provision of this Tenth Supplemental Trust Indenture shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or sections in this Tenth Supplemental Trust Indenture contained shall not affect the remaining portions of this Tenth Supplemental Trust Indenture, or any part thereof.

Section 1.05. Date of Tenth Supplemental Trust Indenture. The dating of this Tenth Supplemental Trust Indenture as July 1, 2006, is intended as and for the convenient identification of this Tenth Supplemental Trust Indenture only and is not intended to indicate that this Tenth Supplemental Trust Indenture was executed and delivered on said date, this Tenth Supplemental Trust Indenture being executed and delivered and becoming effective simultaneously with the initial execution and delivery of the Certificates.

Section 1.06. Governing Law. This Tenth Supplemental Trust Indenture shall be governed by and construed in accordance with the laws of the State.

## ARTICLE II

### AMENDMENTS

Amendment to Article III of the Original Indenture. Section 303 of the Original Indenture is hereby deleted in its entirety and replaced by the following:

Section 303. Trustee's Duty to Redeem Bonds. The Trustee shall call Bonds for redemption and payment as herein provided and shall give notice of redemption as provided in Section 304 hereof upon receipt by the Trustee at least 45 days prior to the redemption date of a written request of the Issuer together with the consent or request of the Tenant, provided the funds on hand with the Trustee are sufficient to pay the redemption price thereof. Any such consent or request shall specify the principal amount and the respective maturities of the Bonds to be called for redemption, the applicable redemption price or prices and the provision or provisions of the Indenture pursuant to which such Bonds are to be called for redemption.

Unless otherwise directed by the Tenant, if less than all of the Outstanding Bonds are to be redeemed, the amounts available for such redemption shall be allocated to the Bonds of each series as nearly as applicable on a proportionate basis. Within each series, such amounts shall be allocated and applied to the redemption of the Bonds of such series by lot in such equitable manner as shall be determined by the Trustee if less than full redemption within a single maturity shall be redeemed.

## ARTICLE III

### MISCELLANEOUS

Section 3.01. No Other Amendments. Except as specifically amended hereby, all other terms and provisions of the Original Declaration of Trust shall remain in full force and effect.

Section 3.02. Execution in Counterparts. This Tenth Supplemental Trust Indenture May be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 3.03. Governing Law. This Tenth Supplemental Trust Indenture shall be governed exclusively by and construed and interpreted in accordance with applicable laws of the State of Missouri.

IN WITNESS WHEREOF, the Issuer has caused this Indenture to be signed in its name and on its behalf by its Mayor and attested by its City Clerk, and has caused its corporate seal to be hereunto affixed, and caused this document to be dated as of the date first above written.

CITY OF WICHITA, KANSAS,  
as Issuer

By:  
Carlos Mayans, Mayor

By:  
Karen Sublett, City Clerk

#### ACKNOWLEDGMENT

STATE OF KANSAS            )  
  ) SS:  
SEDGWICK COUNTY         )

BE IT REMEMBERED that on this \_\_\_\_ day of June, 2006, before me, a notary public in and for said County and State, came Carlos Mayans, Mayor of the city of Wichita, Kansas, and Karen Sublett, City Clerk of said City, who are personally known to me to be the such officers, and who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Notary Public in and for said County and State

My Appointment Expires:

THE BANK OF NEW YORK TRUST COMPANY, N.A.  
St. Louis, Missouri  
as Trustee

By:  
Name: Cheryl A. Rain  
Title: Assistant Vice President

By:  
Name: Robert Dunn  
Title: Vice President

## ACKNOWLEDGMENT

STATE OF KANSAS            )  
  ) SS:  
SEDGWICK COUNTY         )

BE IT REMEMBERED that on this \_\_\_\_\_ day of June, 2006, before me, a notary public in and for said County and State, came Cheryl A. Rain, Assistant Vice President and Robert Dunn, Vice President of The Bank of New York Trust Company, N.A., St. Louis, Missouri, a national banking association duly organized under the laws of the United States, who are personally known to me to be the same persons who executed the within instrument on behalf of said national banking association, and such persons duly acknowledged the execution of the same to be the act and deed of said national banking association.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Notary Public in and for said County and State

My Appointment Expires:

## TENTH SUPPLEMENTAL LEASE

BY AND BETWEEN

CITY OF WICHITA, KANSAS

AND

LEARJET, INC.

DATED AS OF JULY 1, 2006

## ARTICLE I

### AMENDMENTS TO ARTICLE XVI

Section 1.01. Section 16.6 is hereby added to the Original Lease and shall read as follows:	4
Section 1.02. Section 16.7 is hereby added to the Original Lease and shall read as follows:	5
Section 1.03. Section 16.8 is hereby added to the Original Lease and shall read as follows:	5
Section 1.04. Section 16.9 is hereby added to the Original Lease and shall read as follows:	6
Section 1.05. Section 16.10 is hereby added to the Original Lease and shall read as follows:	6

## ARTICLE II

### MISCELLANEOUS PROVISIONS

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Section 2.02. Execution in Counterparts	6
Section 2.03. Governing Law	6

## TENTH SUPPLEMENTAL LEASE

THIS TENTH SUPPLEMENTAL LEASE dated as of July 1, 2006 (the "Tenth Supplemental Lease"), by and between the City of Wichita, Kansas, a municipal corporation of the State of Kansas (the "Issuer") and Learjet, Inc., a corporation organized under the laws of the State of Delaware and qualified to conduct its business in the State of Kansas (the "Tenant").

WHEREAS, the City of Wichita, Kansas (the "Issuer"), is authorized and empowered pursuant to the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the "Act"), to acquire, construct, install and equip certain facilities (as defined in the Act) for the stated statutory purposes, to enter into lease and lease purchase

agreements with any person, firm or corporation for said projects, and to issue revenue bonds for the purpose of paying the cost of such facilities; and

WHEREAS, pursuant to the Act, the Governing Body of the Issuer has heretofore indicated the Issuer's intent to issue taxable industrial revenue bonds (Learjet Inc.), in the original aggregate principal amount not to exceed \$86,000,000, pursuant to a Letter of Intent dated September 10, 1996 (the "Letter of Intent"), all for the purpose of paying the cost of constructing, installing and equipping certain manufacturing facilities (the "Project"); and

WHEREAS, in accordance with the Letter of Intent and pursuant to the Act, the Governing Body of the Issuer passed Ordinance No. 43-335, authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XII, 1996 (Learjet Inc.) (the "Series 1996 Bonds"), in the principal amount of \$12,240,000 pursuant to a Trust Indenture dated as of December 1, 1996 (the "Original Indenture"), by and between the Issuer and Boatmen's National Bank, succeeded in interest by Intrust Bank, N.A., and further succeeded in interest by The Bank of New York Trust Company, N.A., St. Louis, Missouri, as trustee (the "Trustee"), for the purpose of financing the construction, installing and equipping of a portion of the Project; and

WHEREAS, in connection with the issuance of the Series 1996 Bonds, the Issuer, as lessor, entered into a Lease dated as of December 1, 1996 (the "Original Lease"), for the Project with Learjet, Inc., a Delaware corporation duly qualified to do business in the State of Kansas (the "Tenant"), as lessee; and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 43-661 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XIX, 1997 (Learjet Inc.) (the "Series 1997 Bonds"), in the principal amount of \$9,595,165 pursuant to the terms of the First Supplemental Trust Indenture dated as of December 1, 1997 (the "First Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 1997 Bonds, the City and the Tenant entered into a First Supplemental Lease dated as of December 1, 1997 (the "First Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 44-109 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XVI, 1998 (Learjet Inc.) (the "Series 1998 Bonds"), in the principal amount of \$5,755,000 pursuant to the terms of the Second Supplemental Trust Indenture dated as of December 1, 1998 (the "Second Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 1998 Bonds, the City and the Tenant entered into a Second Supplemental Lease dated as of December 1, 1998 (the "Second Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 44-438 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XV, 1999 (Learjet Inc.) (the "Series 1999 Bonds"), in the principal amount of \$6,835,088 pursuant to the terms of the Third Supplemental Trust Indenture dated as of December 1, 1999 (the "Third Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 1999 Bonds, the City and the Tenant entered into a Third Supplemental Lease dated as of December 1, 1999 (the "Third Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 44-823 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series VIII, 2000 (Learjet Inc.) (the "Series 2000 Bonds"), in the principal amount of \$16,442,500 pursuant to the terms of the Fourth Supplemental Trust Indenture dated as of December 1, 2000 (the "Fourth Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2000 Bonds, the City and the Tenant entered into a Fourth Supplemental Lease dated as of December 1, 2000 (the "Fourth Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 45-154 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XV, 2001 (Learjet Inc.) (the "Series 2001 Bonds"), in the principal amount of \$21,441,000 pursuant to the terms of the Fifth Supplemental Trust Indenture dated as of December 1, 2001 (the "Fifth Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2001 Bonds, the City and the Tenant entered into a Fifth Supplemental Lease dated as of December 1, 2001 (the "Fifth Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 45-515 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series VII, 2002 (Learjet Inc.) (the "Series 2002 Bonds"), in

the principal amount of \$4,295,000 pursuant to the terms of the Sixth Supplemental Trust Indenture dated as of December 1, 2002 (the "Sixth Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2002 Bonds, the City and the Tenant entered into a Sixth Supplemental Lease dated as of December 1, 2002 (the "Sixth Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 45-491 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series XII, 2003 (Learjet Inc.) (the "Series 2003 Bonds"), in the principal amount of \$925,000 pursuant to the terms of the Seventh Supplemental Trust Indenture dated as of December 1, 2003 (the "Seventh Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2003 Bonds, the City and the Tenant entered into a Seventh Supplemental Lease dated as of December 1, 2003 (the "Seventh Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 46-415 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series VII, 2004 (Learjet Inc.) (the "Series 2004 Bonds"), in the principal amount of \$2,780,000 pursuant to the terms of the Eighth Supplemental Trust Indenture dated as of December 1, 2004 (the "Eighth Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2004 Bonds, the City and the Tenant entered into a Eighth Supplemental Lease dated as of December 1, 2004 (the "Eighth Supplemental Lease"); and

WHEREAS, the Governing Body of the Issuer subsequently passed Ordinance No. 46-863 authorizing the issuance of its Taxable Industrial Revenue Bonds, Series IX, 2005 (Learjet Inc.) (the "Series 2005 Bonds"), in the principal amount of \$3,122,000 pursuant to the terms of the Ninth Supplemental Trust Indenture dated as of December 1, 2005 (the "Ninth Supplemental Indenture"), for the purpose of providing additional funds to construct, install and equip the Project; and

WHEREAS, in connection with the issuance of the Series 2005 Bonds, the City and the Tenant entered into a Ninth Supplemental Lease dated as of December 1, 2005 (the "Ninth Supplemental Lease"); and

WHEREAS, the Series 1996 Bonds, the Series 1997 Bonds, the Series 1998 Bonds, the Series 1999 Bonds, the Series 2000 Bonds, the Series 2001 Bonds, the Series 2002 Bonds, the Series 2003 Bonds, the Series 2004 Bonds and the Series 2005 Bonds are herein collectively referred to as the "Bonds"; and

WHEREAS, the Original Indenture, the First Supplemental Indenture, the Second Supplemental Indenture, the Third Supplemental Indenture, the Fourth Supplemental Indenture, the Fifth Supplemental Indenture, the Sixth Supplemental Indenture, the Seventh Supplemental Indenture, the Eighth Supplemental Indenture, the Ninth Supplemental Indenture and the Tenth Supplemental Indenture as hereinafter defined are herein collectively referred to as the "Indenture"; and

WHEREAS, the Original Lease, the First Supplemental Lease, the Second Supplemental Lease, the Third Supplemental Lease, the Fourth Supplemental Lease, the Fifth Supplemental Lease, the Sixth Supplemental Lease, the Seventh Supplemental Lease, the Eighth Supplemental Lease, the Ninth Supplemental Lease and this Tenth Supplemental Indenture are herein collectively referred as the "Lease"; and

WHEREAS, the Issuer has received a request from the Tenant to purchase a portion of the Project (the "Purchased Property") financed with a portion of the proceeds of the Bonds; and

WHEREAS, the Tenant has advised that proceeds of the Bonds outstanding in the principal amount of \$3,269,095.72 were used to finance the construction, installing and equipping of the Purchased Property and has requested Bonds in said principal amount be called for redemption prior to maturity; and

WHEREAS, in order to implement the Tenant's requests it is necessary and desirable to enter into a Tenth Supplemental Trust Indenture (the "Tenth Supplemental Indenture") and a Tenth Supplemental Lease (the "Tenth Supplemental Lease") to permit the requested purchase by the Tenant of the Purchased Property and the early redemption of the portion of the Bonds which financed the construction, installing and equipping of the Purchased Property; and

WHEREAS, pursuant to Article XI and Article XII of the Indenture, any such amendment of the Indenture and the Lease requires the consent of the owners of the Bonds, the Tenant, the Issuer and the Trustee; and

WHEREAS, Learjet, Inc., a Delaware corporation, is 100% owner (the "Bondowner") of the Bonds outstanding; and

WHEREAS, the Bondowner, the Trustee and the Tenant have consented to the requested amendments; and

WHEREAS, pursuant to Ordinance No. \_\_\_\_\_, the Issuer has approved the requested amendments;  
NOW, THEREFORE, THIS TENTH SUPPLEMENTAL LEASE WITNESSTH, that the Issuer and the Tenant do hereby agree that the Original Lease shall be amended and supplemented as described herein.

#### ARTICLE IV

##### AMENDMENTS TO ARTICLE XVI

Section 4.01. Section 16.6 is hereby added to the Original Lease and shall read as follows:

Section 16.6. Option to Purchase Portions of the Project. The Tenant shall have the option to purchase at any time and from time to time during the Basic Term a portion of the Project; provided, however, the Tenant shall furnish the Issuer and the Trustee with a certificate of an Authorized Tenant Representative, dated not more than 30 days prior to the date of the purchase and stating that, in the opinion of the Authorized Tenant Representative, (a) the portion of said Project with respect to which the option is exercised is not needed for the operation of the Project for the purposes herein stated and (b) the purchase will not impair the usefulness or operating efficiency or materially impair the value of the Project and will not destroy or materially impair the means of ingress thereto and egress therefrom. The Tenant shall exercise this option by giving Issuer and Trustee written notice of the Tenant's election to exercise its option and specifying the portion of the Project, including any legal description and the date, time and place of closing, which date shall neither be earlier than 45 days nor later than 60 days after the notice is given, (c) specifying the principal amount of the Bonds Outstanding used to finance the portion of the Project with respect to which the Tenant's option is exercised and (d) a certificate signed by an Authorized Tenant Representative stating that no event has occurred and is continuing which, with notice or lapse of time or both, would constitute an Event of Default; provided, however, that the Tenant may not exercise this option if there has occurred and is continuing any event which, with notice or lapse of time or both, would constitute an Event of Default at the time said notice is given and may not purchase said portion of the Project on the specified closing date if any such event has occurred and is continuing on said date unless all defaults are cured.

Section 4.02. Section 16.7 is hereby added to the Original Lease and shall read as follows:

Section 16.7. Quality of Title - Purchase Price. If the notice of election to purchase is given as provided in Section 16., the Issuer shall convey the portion of the Project, including the real property, described in the Tenant's notice to the Tenant on the specified date free and clear of all liens and encumbrances except (i) Permitted Encumbrances, (ii) those to which the title was subject on the date of conveyance to the Issuer of the Project, or to which title became subject with the Tenant's written consent, or which resulted from any failure of the Tenant to perform any of its covenants or obligations under this Lease, (iii) outstanding taxes and assessments, general and special, if any, and (iv) the interests of any party having condemned or who is attempting to condemn title to, or the use for a limited period of, all or any part of the real property described in the Tenant's notice. The purchase price shall be an amount equal to the Outstanding principal amount of the Bonds used to finance the portion of the Project to be conveyed to by the City to the Tenant.

Section 4.03. Section 16.8 is hereby added to the Original Lease and shall read as follows:

Section 16.8. Closing of Purchase. If the Issuer has title to the real property included in the portion of the Project to be conveyed to the Tenant free and clear of all liens and encumbrances except as stated above or has such other title to such real property as may be acceptable to the Tenant, then on the specified date, the Issuer shall deliver to the Tenant its special warranty deed, properly executed and conveying such real property to the Tenant free and clear of all liens and encumbrances except as stated above, and the Tenant shall pay the purchase price for such real property, said purchase price to be paid to the Trustee for the account of the Issuer and deposited by the Trustee in the Principal and Interest Payment Account and shall be used to redeem Bonds on any date the Bonds are subject to optional redemption as provided in the Indenture. Nothing herein shall require the Issuer to deliver its special warranty deed to the Tenant until after all duties and obligations of the Tenant under this Lease to the date of such delivery have been fully performed and satisfied.

Section 4.04. Section 16.9 is hereby added to the Original Lease and shall read as follows:

Section 16.9. Effect of Purchase on Lease. The exercise by the Tenant of the option granted under these Sections 16.6 to 16.10 and the purchase and sale and conveyance of a portion or portions of the Project, pursuant hereto shall in no way whatsoever affect this Lease, and all the terms and provisions hereof shall remain in full force and effect the same as though no notice of election to purchase had been given, and specifically, but not in limitation of the generality of the forgoing, exercise of such option shall not affect, alter, diminish, reduce or abate the Tenant's obligations to pay all Basic Rent and Additional Rent required hereunder.



Section 4.05. Section 16.10 is hereby added to the Original Lease and shall read as follows:

Section 16.10 Effect of Failure to Complete Purchase. If, for any reason whatsoever, the purchase by the Tenant of a portion of the Project described in said notice is not effected on the specified date, this Lease shall be and remain in full force and effect according to its terms the same as though no notice of election to purchase had been given.

#### ARTICLE V

#### MISCELLANEOUS PROVISIONS

Section 5.01. No Other Amendments. Except as specifically amended hereby, all other terms and provisions of the Lease shall remain in full force and effect.

Section 5.02. Execution in Counterparts. This Tenth Supplemental Lease may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 5.03. Governing Law. This Tenth Supplemental Lease shall be governed exclusively by and construed and interpreted in accordance with applicable laws of the State of Kansas.

IN WITNESS WHEREOF, the parties hereto have executed these presents and have caused this document to be dated as of the day and year first above written.

CITY OF WICHITA, KANSAS

By:

Carlos Mayans, Mayor

(SEAL)

ATTEST:

By:

Karen Sublett, City Clerk

“ISSUER”

#### ACKNOWLEDGMENT

STATE OF KANSAS            )  
  ) SS:  
SEDGWICK COUNTY        )

BE IT REMEMBERED that on this \_\_\_\_ day of June, 2006, before me, a notary public in and for said County and State, came Carlos Mayans, Mayor of the city of Wichita, Kansas, a municipal corporation of the State of Kansas, and Karen Sublett, City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Notary Public in and for said County and State

My Appointment Expires:

LEARJET INC.

By:

Name: Donald R. Pufahl

Title: Director of Finance & Assistant Treasurer

By:  
Name: Anne G. Beaurivage  
Title: General Counsel & Secretary

“TENANT”

STATE OF KANSAS            )  
  ) SS:  
SEDGWICK COUNTY         )

BE IT REMEMBERED that on this \_\_\_\_\_ day of June, 2006, before me, a notary public in and for said County and State, came Donald R. Pufahl, Director of Finance & Assistant Treasurer and Anne G. Beaurivage, General Counsel & Secretary of Learjet, Inc., a Delaware corporation, on behalf and acknowledged to me that they executed the same for the purposes therein expressed, acting for and on behalf of said corporation, each in his capacity as such officer.  
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Notary Public in and for said County and State

My Appointment Expires:

## **Agenda Item No. 39.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0670

TO: Mayor and City Council

SUBJECT: ZON2006-16 Associated with CON2006-12 Zone change to “LC” Limited Commercial with Protective Overlay #173; conditional use for warehouse, self-service storage. Generally located at the southwest corner of Central and Garnett. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendation: Approve, subject to conditions, vote (7-4).

MAPD Staff Recommendations: (1) Defer due to insufficient information submitted by applicant (staff report to MAPC 04-20-06); (2) approve subject to MAPC recommendation and subject to conditions recommended (memo to DAB dated 06-05-06)

DAB Recommendations: Approve, subject to conditions in DAB memo dated 06-05-06 (6-1)

BACKGROUND: The applicant is requesting a zone change from “SF-5” Single-family Residential to “LC” Limited Commercial for a 3.63-acre tract on the southwest corner of Central and Garnett Avenue. Additionally, the applicant is requesting conditional use approval for 2.88 acres for warehouse, self-service storage on an L-shaped tract that excludes the northeast corner (0.75 acre) of the rezoning request.

The site plan shows a lot area coverage of 45 percent, which is the maximum permitted by the Unified Zoning Code for warehouse, self-service storage in the “GO” General Office or LC district. The site plan does not meet minimum landscape buffers or contain the information on the site plan for easements, lighting fixtures, signage, building setbacks, etc.

Pictorial representations taken from other sites and intended to be prototypical of this site were submitted to show the character of the warehouse, self-service storage project. Exterior building walls show brick and composite siding, which is typical of residential construction. The pitch and type of shingle of the roof is similar to those commonly in use in residential areas. The metal fencing (often referred to generically as “wrought iron”) also conforms to fencing typically found in residential development.

The property to the south and west of the site is zoned SF-5 and in residential use. Farther west on Central (one-eighth mile), a node of “GO” General Office zoning flanks Jackson Heights Street, developed with a real estate office and a hotel. A small lake connects to the properties along the west side of Garnett and south of Central. The property to the north and northwest were approved subject to platting for commercial and office use in 2001, but the property was never platted. Subsequently, the northwest tract was platted for SF-5 residential use (Crestlake Addition). A convenience store on property zoned LC is located to the northeast. The property to the east is zoned LC and partially developed as Crestview Plaza (DP-247 127th Retail Center) with a bank at the corner of 127th Street East and Central and with a small strip center with local retail types of uses. Approximately one-half of the CUP currently is vacant.

Analysis: At the MAPC meeting held April 20, 2006, MAPC received a recommendation from staff to defer the case. Staff recommended deferral due to issues with the site plan, particularly due to it not meeting landscape buffer and building setback minimum distances of 15 feet for the west and south property line per Article III, Section III-D.6.y(4) of the Unified Zoning Code, and the difficulty apparent in meeting this criterion without substantially revising the site plan. Other concerns were lack of architectural elevations to review per Sec. III-D.6.y(5), type of lighting to be used and type of signage. MAPC heard testimony from the applicant and his agent as well as several neighbors in opposition. The agent offered a voluntary protective overlay for the area not included within the conditional use tract for the warehouse, self-service storage and asked for approval of the conditional use based on the site plan with the reduced width but offered to double the landscape plant materials provided within the ten-foot buffer. During staff presentation at the MAPC hearing, staff indicated that since the staff report recommended deferral, it did not include the standard conditions of approval for a conditional use. MAPC voted (7-4) to recommend approval of the request as submitted by the agent, including the addition of the protective overlay for the area outside the conditional use boundaries. This recommendation was as follows:

A. APPROVE the zone change (ZON2006-00016) to LC Limited Commercial for the entire tract, subject to a protective overlay with the following conditions for the property described as:

The north 205 feet of the east 160 feet of the following described tract: Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

1. The following uses shall be prohibited: correctional placement residence, group residence, car wash, night club in the city, sexually oriented business in the city, tavern or drinking establishment, and vehicle repair.
2. Access control shall be dedicated by separate instrument or lot split to limit access to one approach on the frontage on Central.
3. Cross lot access shall be required for development on the property described as Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

B. APPROVE the conditional use for warehouse, self-service storage, subject to the following conditions on property more particularly described as:

Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas,

EXCEPT the north 205 feet of the east 160 feet of the following described tract: Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

1. The minimum required landscape buffer may be reduced from 15 feet to 10 feet on the west and south property line with a doubling of the landscape buffer plant materials requirement on these property lines.

At the District II Advisory Board meeting held May 1, 2006, the DAB received a memo dated April 25, 2006, that contained the recommendation of MAPC as well as some additional information from staff about standard conditions of approval for a conditional use and some conditions for this site that could be considered by the DAB. One of the issues raised at the DAB meeting by citizens was whether the proposed building setback buffer widths are typical of other warehouse, self-storage uses in close proximity to residential uses. The board voted (11-0) to recommend deferral to the next DAB meeting, pending the possible revisions of the site plan and discussion of the buffer size typically found in close proximity.

At the District II Advisory Board meeting held June 5, 2006, DAB II heard additional testimony from the applicant and from citizens, reviewed an additional memo from staff dated June 5, 2006, and reviewed a revised site plan, architectural elevations and landscape plan from the applicant. DAB II voted (6-1) to recommend approval of the request based on the MAPC recommendation and the recommended additional conditions from the memo dated June 5, 2006. These combined conditions would be:

A. APPROVE the zone change (ZON2006-00016) to LC Limited Commercial for the entire tract, subject to a protective overlay with the following conditions for the property described as:

The north 205 feet of the east 160 feet of the following described tract: Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

1. The following uses shall be prohibited: correctional placement residence, group residence, car wash, night club in the city, sexually oriented business in the city, tavern or drinking establishment, vehicle repair, and restaurants with drive-through or in-car service.
2. Access control shall be dedicated by separate instrument or lot split to limit access to one approach on the frontage on Central.
3. Cross lot access shall be required for development on the property described as Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

B. APPROVE the conditional use for warehouse, self-service storage, subject to the following conditions on property more particularly described as:

Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas,

EXCEPT the north 205 feet of the east 160 feet of the following described tract: Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

1. The subject property shall comply with the requirements of Article III, Section III-D.6.y of the Unified Zoning Code except the minimum required landscape buffer may be reduced from 15 feet to 10 feet on the west and south property line with a doubling of the landscape buffer plant materials requirement on these property lines.
2. Prior to consideration of the request by the City Council, a revised site plan demonstrating compliance with all requirements of Condition #1 and the site plan guidelines for a conditional use shall be submitted for review and approved by the Planning Director.
3. Prior to consideration of the request by the City Council, the architectural design of all buildings shall be approved by the Planning Director. The architectural design shall be consistent and shall be compatible with surrounding residential development and shall be of equal or better materials and design of those presented in the pictorial representations at the public hearing. Architectural elevations and renderings shall be submitted for purposes of this review, and upon approval, sufficient copies shall be retained in the files to ensure compliance with the approved architectural design.
4. A lot split application shall be submitted within 60 days one year of approval of the conditional use by the City Council, and approval of a lot split creating separate parcels for the warehouse, self-service storage, and remainder of Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas shall be received prior to the issuance of any building permits. The lot split shall establish a cross-lot access agreement between the parcels and access control along Central except for one shared opening.
5. The site shall be developed in general conformance with a landscape plan approved prior to the issuance of any building permits. The landscape plan shall comply with the requirements of the Landscape Ordinance and Section III-D.6.y(4) of the Unified Zoning Code except as otherwise required by this condition. A buffer with a minimum width of 10 feet on the south and west property line shall be landscaped with a minimum of double the required planting materials (shade, ornamental and evergreen plants) per the Landscape Ordinance. Existing plants shall be encouraged to be retained and used to meet buffer requirements; but and gaps between existing plants or areas where existing plants are removed shall be provided with interspersed new plant materials; . For purposes of calculations, the linear feet of abutting property line without existing plant materials providing screening shall be used to determine calculate the amount of new plant materials to be provided, calculated at double the rate of the Landscape Ordinance.
6. Ground-mounted signage for the parcel shall be limited to monument style signage 3250 square feet in area and 20 feet in height.

7. Uses shall be restricted to warehouse, self-service storage, or other uses permitted in the SF-5 Single-family Residential District.
8. The subject property shall be developed in general conformance with the approved site plan, and no building permits shall be issued prior to the approval of the site plan.
9. Construction of improvements shall be commenced within one year of approval by the appropriate governing body.
10. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Protests have been received in opposition to the request representing 50.25 percent of the property within 200 feet of the tract. This will require  $\frac{3}{4}$  majority vote by the governing body to approve. Additional letters and email correspondence and protests from property owners in the vicinity have been received.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

Legal Considerations: The ordinance and resolution have been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change subject to the protective overlay and approve the conditional use; withhold the publication of ordinance and implementation of resolution until the conditions of the protective overlay and conditional use are met (requires a three-fourth majority vote of the governing body); or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-third majority vote of the City Council on the first hearing.)

Attachment: Resolution and Ordinance

RESOLUTION No. \_\_\_\_\_

A RESOLUTION AUTHORIZING A CONDITIONAL USE FOR WAREHOUSE, SELF-SERVICE STORAGE ON 2.88 ACRES ZONED "LC" LIMITED COMMERCIAL, LOCATED AT THE SOUTHWEST CORNER OF CENTRAL AND GARNETT IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975, AS AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, a Conditional Use to permit warehouse, self-service storage, on 2.88 acres zoned "LC" Limited Commercial legally described below:

Case No. CON2006-00012

A Conditional Use Permit for Warehouse, Self-Service Storage, on 2.88 acres zoned "LC" Limited Commercial described as:

Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas,

EXCEPT the north 205 feet of the east 160 feet of the following described tract: Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The minimum required landscape buffer may be reduced from 15 feet to 10 feet on the west and south property line with a doubling of the landscape buffer plant materials requirement on these property lines.

SECTION 2. That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION 3. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date

\_\_\_\_\_  
Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to form:

Gary E. Rebenstorf, City Attorney





Published in The Wichita Eagle on \_\_\_\_\_  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2006-00016

Request for Zone change from "SF-5" Single-family Residential to "LC" Limited Commercial, on property described as:

Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas. Generally located on the southwest corner of Central and Garnett.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY #173 for the following described tract:

The north 205 feet of the east 160 feet of the following described tract: Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

1. The following uses shall be prohibited: correctional placement residence, group residence, car wash, night club in the city, sexually oriented business in the city, tavern or drinking establishment, and vehicle repair.
2. Access control shall be dedicated by separate instrument or lot split to limit access to one approach on the frontage on Central.
3. Cross lot access shall be required for development on the property described as Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, \_\_\_\_\_

Carlos Mayans - Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form:

Gary E. Rebenstorf, City Attorney

## **Agenda Item No. 40.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0671

TO: Mayor and City Council

SUBJECT: CON2006-00022 Conditional Use for 150-foot Wireless Communication Tower on property zoned GC General Commercial. Generally located west of Maize Road and south of West 21st Street . (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (non-consent)

MAPC Recommendation: Approve (12-0), subject to staff recommendations except the following: (1) Change condition "D" of the conditional use to "The support structure shall be no greater than 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least five wireless service providers." (2) Delete condition "E" of the conditional use, which required that the facility be engineered and constructed to accept a 30-foot extension and five carriers.

Staff Recommendation: Approve, subject to conditions.

Background: The applicant is seeking a conditional use to permit the construction of a 150-foot monopole wireless facility for use by T-Mobile USA. The proposed site is zoned GC General Commercial and located approximately 600 feet west of Maize Road just south of 21st Street North. The application area is also located in DP-184, Pearson Farms Commercial Community Unit Plan.

The character of the surrounding area is largely commercial in nature along the 21st Street and Maize Road corridors. The vast majority of surrounding property is occupied with retail commercial uses, although several office, medical and church uses exist in the vicinity. Immediately north of the application area is a retail strip center zoned GC General Commercial. Across 21st Street North is the New Market Square development, which includes a car wash, Wal-Mart and many restaurants and retail shops in a mix of LC and GC zoning. The abutting property to the west is zoned LC and is developed with a nursery/garden center. The property adjacent to the south is zoned SF-5 Single-family Residential and developed with a church. Immediately east of the subject property is a medical office zoned LC Limited Commercial.

The application area is approximately 0.05 acres located within an existing U-Stor self-storage facility. The site plan indicates that the proposed conditional use will utilize several of the self-storage units for storage and screening of necessary equipment. The site is well screened from surrounding properties, as the U-Store facility has a masonry/metal screening wall on three sides. The application area is screened from 21st Street North by a retail strip center. As such, the recommendation includes no additional screening provisions.

The applicant has submitted a letter of intent from a second carrier (Alltel), which would co-locate upon approval of the conditional use request and completion of the facility.

Analysis: Due to timing issues, DAB V had not heard the case by the submittal deadline for this report. The DAB V hearing is scheduled for June 5, 2006.

At the MAPC hearing on May 18, 2006, three individuals spoke in opposition to the conditional use. The MAPC voted (12-0) to recommend approval of the conditional use, subject to conditions recommended by staff except the following: (1) Change condition "D" of the conditional use to "The support structure shall be no greater than 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least five wireless service providers." (2) Delete condition "E" of the conditional use, which recommended that the facility be engineered and constructed to accept a 30-foot extension and five carriers. After discussion regarding the ultimate height of the extension, the MAPC motion was revised from the staff recommendation as noted. The conditions of approval recommended by the MAPC are:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the conditional use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall be no greater than 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least five wireless service providers.
- E. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- F. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- G. DP-184 shall be revised to include "one wireless communication facility" as an allowable use on Parcel 3.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of the conditional use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the conditional use is null and void.

Staff has received written protest to the MAPC approved conditional use that totals over 67% of the total property within a 200-foot radius of the outer boundaries of the subject property. Therefore, at least 3/4 of the Governing Body must vote to approve the conditional use to overturn the protest.

Financial Considerations: None

Goal Impact: Promote Economic Vitality and Affordable Living

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendations/Actions:

1. Adopt the findings of the MAPC and approve the conditional use to permit the proposed wireless communication facility, subject to the recommended conditions; place the ordinance on first reading; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a 2/3-majority vote of the membership of the governing body on the first consideration. An override of the 20% protest provided by neighboring properties requires a 3/4-majority vote.)

## **Agenda Item No. 41.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0672

TO: Mayor and City Council

SUBJECT: ZON2006-22 and CON2006-20 Zone change from SF-5 Single-family Residential to LC Limited Commercial and a Conditional Use to allow a car wash within 200 feet of a residential zoning district. Generally located at the northeast corner of West Kellogg Drive and South Maize Road. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (consent)

MAPC Recommendation: Approve (12-0), subject to staff recommendations.

Staff Recommendation: Approve, subject to platting within one-year and conditions.

Background: The applicant is requesting a zone change from SF-5 Single-family Residential to LC Limited Commercial and a conditional use to allow a car wash to be located within 200 feet of residential zoning in the LC Limited Commercial zoning district. The 0.81-acre site is located on the northeast corner of the intersection of Maize Road and Kellogg Drive. All but the north 43 feet of the site, which is zoned SF-5 Single-family Residential, is currently zoned LC Limited Commercial. The rezoning is applicable to the north 43 feet, while the conditional use would cover the entire tract. The entire subject parcel is currently vacant. Quik Trip Corporation, owner of the property immediately west of the subject property, is proposing the car wash as an ancillary use to their existing convenience store.

A mix of commercial and residential zoning and land uses exists on both sides of the Maize Road/Kellogg Drive intersection. The commercial zoning and uses are concentrated on the road frontages, while single-family residential zoning and uses exist northwest and northeast of this commercial node. The SF-5 zoning continues about 2,100 feet east of the site to Seville Avenue, where the highway frontage transitions back to commercial. Given the recent improvements to Kellogg Drive/US 54, it would be expected that the area east of the site would begin being developed with commercial uses consistent with the Functional Land Use Guide of the Comprehensive Plan. South of the site is the Kellogg Drive/US 54 right-of-way. A single-family residence zoned SF-5 abuts the site to the north.

Analysis: Due to timing issues, DAB V did not hear this case. The date of the DAB V hearing would have exceeded the fourteen-day protest period from the date MAPC heard the case.

At the MAPC hearing on May 18, 2006, the MAPC voted (12-0) to recommend approval of the zoning change and the Conditional Use, subject to platting within one year and subject to conditions recommended by staff. The conditions of approval recommended by the MAPC are:

A. The site shall be developed according to the site plan and maintained in compliance with all the requirements of Section III-D.6.f of the UZC regarding supplementary use regulations for car washes. All improvements shall be completed before the facility becomes operational.

- B. The site shall comply with all provisions of Section IV-C of the UZC, pertaining to compatibility standards.
- C. The site shall comply with all provisions of the Landscape Ordinance and the applicant shall submit a landscape plan for approval by the Planning Director.
- D. After a review of the development and upon appropriate findings, any violation of the conditions of approval will allow the conditional use to be declared null and void.

Financial Considerations: None

Goal Impact: Promote Economic Vitality and Affordable Living

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendations/Actions:

1. Adopt the findings of the MAPC and approve the zoning change and the Conditional Use to permit a car wash, subject to platting within one year and subject to the recommended conditions; instruct the Planning Department to forward the ordinance and resolution for first reading when the plat is forwarded to the City Council; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a 2/3-majority vote of the membership of the governing body on the first consideration.)

## **Agenda Item 42.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report 06-0673

TO: Mayor and City Council Members

SUBJECT: SUB 2005-84 -- Plat of Tara Falls 3rd Addition, Located West of 127th Street East and North of Pawnee. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (10-0)

Background: This site, consisting of six lots on 2.1 acres, is replat of a portion of Tara Falls Addition and is located in Wichita's city limits. This site is zoned SF-5, Single-Family Residential District.

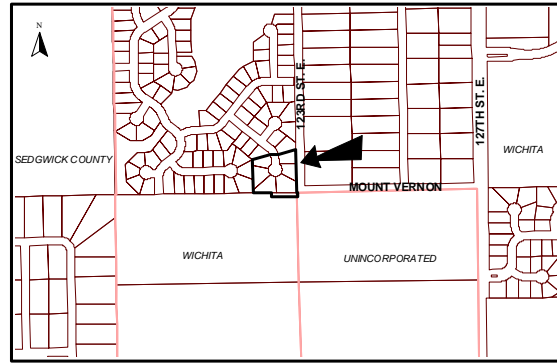
Analysis: Petitions, 100 percent, and a Certificate of Petitions have been submitted for paving and water improvements. A Restrictive Covenant was submitted to provide four off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Certificate of Petitions and Restrictive Covenant will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat, adopt the Resolutions and authorize the necessary signatures.





## **Agenda Item 43.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report 06-0674

TO: Mayor and City Council Members

SUBJECT: SUB 2006-16 -- Plat of Emerald Bay Lift Station Addition, Located South of 29th Street North and west of West Street. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)

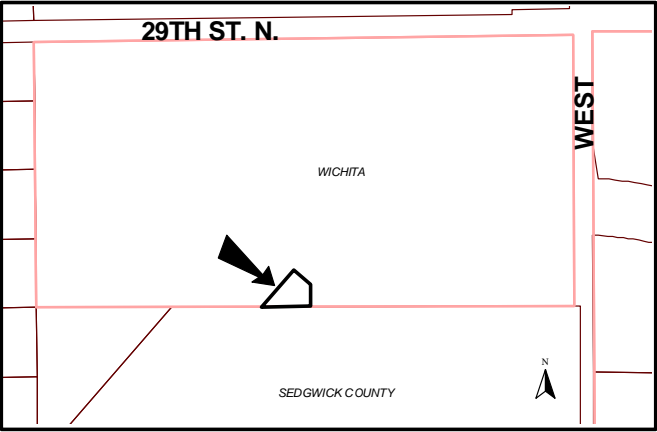
Background: This unplatted site, consisting of one lot on .58 acres is located within the City limits. The site is zoned SF-5, Single-family Residential District. Municipal services are available to serve the site.

Analysis: This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days. The City of Wichita is shown on the plat as the owner of this property.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: None identified.

Recommendations/Actions: It is recommended that the City Council approve the plat and authorize the necessary signatures for both approval of the plat and as to the City's ownership.



## **Agenda Item No. 44.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0675

TO: Mayor and City Council

SUBJECT: VAC2006-00023 Request to vacate portions of a platted drainage easement and a utility easement dedicated by separate instrument, generally located south of 45th Street North, midway between Woodlawn Boulevard and Rock Road.  
(District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant is requesting consideration to vacate the west 10-foot wide portions of the platted 20-foot drainage easement and a utility easement dedicated by separate instrument (Film – Page #28562960), all located on Lot 21, Block B, Willowbend North Estates 2nd Addition. There are no franchised utilities, manholes, sewer or water lines in the platted easement. The easement abuts a golf course on its east side. The Willowbend North Estates 2nd Addition was recorded with the Register of Deeds on January 8, 2004.

Analysis: The MAPC voted (10-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

## **Agenda Item No. 45.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0676

TO: Mayor and City Council

SUBJECT: VAC2006-00024 Request to vacate a portion of a platted easement, generally located northwest of the 29th Street North and Tyler Road intersection.  
(District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicants are requesting consideration to vacate the south 5-feet and the north 4-feet of the platted 20-foot drainage and utility easement that runs parallel to the common lot line of Lots 141 & 142, Block 1, Fox Ridge Addition. There are no water or sewer lines or manholes in the platted easement. Storm Water has consented to the vacation as described. Westar has equipment in the easement and has consented to the vacation as described. The Fox Ridge Addition was recorded with the Register of Deeds on July 8, 2003.

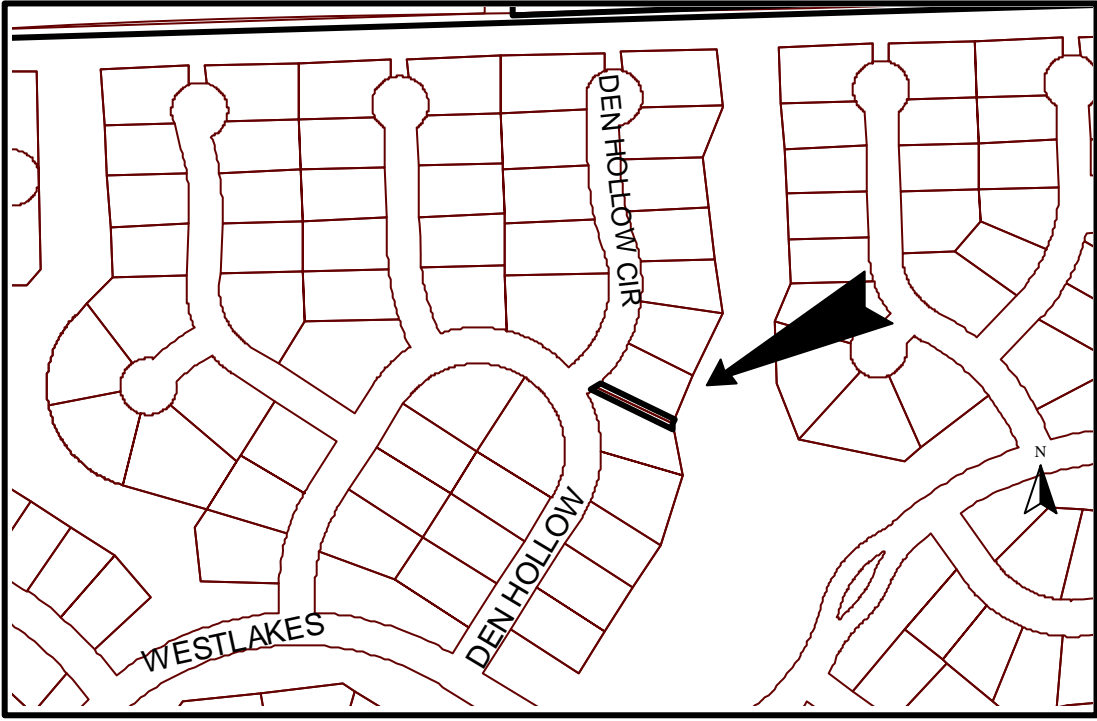
Analysis: The MAPC voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.



## **Agenda Item No. 46.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0677

TO: Mayor and City Council

SUBJECT: VAC2006-00025 Request to vacate a platted easement, generally located south of 13th Street North and west of Zoo Boulevard.  
(District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant is requesting consideration to vacate the platted drainage easement, located between the common lot lines of Lots 5 & 6, Block A, Steve Kelley Addition. There are no franchised utilities, no manholes, sewer or water lines in the described platted easement. The described easement abuts another platted drainage easement located in its rear yard that is common with another eleven abutting, adjacent and continuous lots. Storm Water has approved the vacation of the described easement, ending at its intersection with the platted 20-foot drainage easement located in the rear (north side) yards of the subject lots. The Steve Kelley 5th Addition was recorded with the Register of Deeds on April 28, 2004.

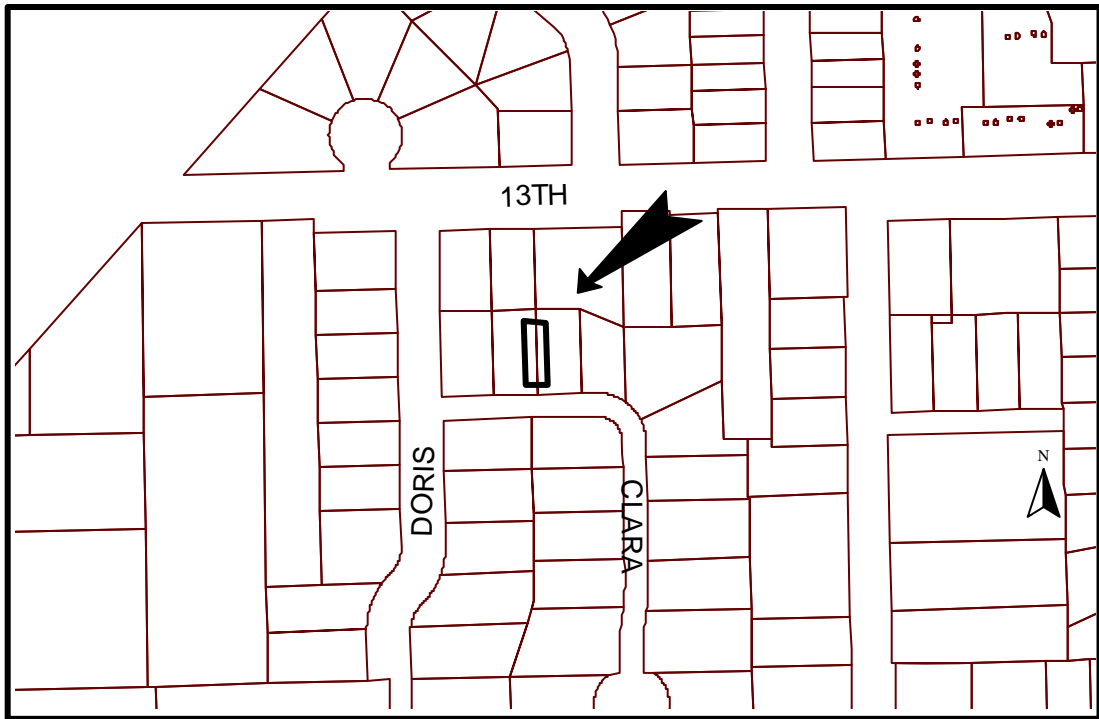
Analysis: The MAPC voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.



## **Agenda Item No. 47.**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0678

TO: Wichita Housing Authority Board Members

SUBJECT: Grant Application for Resident Opportunities and Self Sufficiency (ROSS) Program (District VI)

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the submission of the ROSS Grant application to the Department of Housing and Urban Development, authorize staff to develop a contract with Sedgwick County and provide the necessary signatures.

Background: On October 21, 1998, the Quality Housing and Work Responsibility Act (QHWRA) of 1998 was signed into law. Section 538 of the reform act added a new section to the United States Housing Act of 1937, which provides a mandate to link services and public housing residents for economic self-sufficiency.

The Department of Housing and Urban Development has issued a Notice of Funding Availability for the Resident Opportunities and Self Sufficiency (ROSS) program. This program includes a provision for grants to promote independent living for the elderly and persons with disabilities. The Wichita Housing Authority (WHA), Public Housing Division, was awarded \$200,000 for the 2003 ROSS Grant application, with the Sedgwick County Department on Aging as the WHA's partner and contract administrator. The three-year program has been well received and utilized by the 226 elderly and disabled households in Greenway Manor, McLean Manor, Rosa Gragg and Bernice Hutcherson apartment complexes.

Analysis: The purpose of the ROSS Program is to provide public housing residents with links to supportive services, resident empowerment activities and resources to assist them in becoming self-sufficient. This purpose is consistent with HUD's goal to focus resources on independent living for the elderly and persons with disabilities. If awarded, the grant will enable Public Housing to continue the level of services currently provided to its tenants.

Staff of the WHA and Sedgwick County Department on Aging have developed a Resident Service Delivery Program which will continue to enhance the livability of Greenway Manor, McLean Manor, Rosa Gragg and Bernice Hutcherson apartment complexes for Public Housing residents. The program will assist residents with transportation, companionship and healthy living services at a nominal cost to the resident. The WHA will apply for the maximum grant award for Housing Authorities with 218 – 1155 elderly and non-elderly disabled units, which is total of \$240,000.00 for a three-year program. Under the proposal, the services would be provided by the Sedgwick County Department on Aging in partnership with the WHA. The deadline for the submission of the application is July 13, 2006.

Financial Considerations: The notice of funding requires a 25% match, which may be in-kind. The match of \$198,389 will be provided by the Sedgwick County Department on Aging and other non-City agencies. The Wichita Housing Authority will provide a match of \$1200 for equipment use, but will collect \$24,000 in rent for space and other overhead costs. No local tax funds will be required for this program.



Goal Impact: Promote Economic Vitality and Affordable Living

Legal Considerations: If the Grant application is awarded, the Wichita Housing Authority will enter into a formal contract with Sedgwick County for the Department on Aging to administer the program. The formal contract will be approved to form by the City of Wichita Law Department.

Recommendation/Actions: Approve the submission of the ROSS Grant application to the Department of HUD, authorize staff to develop a contract with Sedgwick County and provide the necessary signatures.

Attachments:

Standard Form-424

HUD Form-2880

Standard Form-LLL

Rating Factor #1 Narrative

Rating Factor #2 Narrative

Rating Factor #3 Narrative

Rating Factor #4 Narrative

# Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing  
and Urban Development

OMB Approval No. 2510-0011 (exp. 12/31/2006)

**Instructions.** (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 2.)

## Applicant/Recipient Information

Indicate whether this is an Initial Report ☒ or an Update Report ☐

1. Applicant/Recipient Name, Address, and Phone (include area code): City of Wichita Housing Authority 332 N. Riverview, Wichita, Kansas 67203 (316) 462-3768	2. Social Security Number or Employer ID Number: 48-6000653
3. HUD Program Name Resident Opportunity and Self-Sufficiency (ROSS) RSDM – Elderly and Persons with Disabilities Grant	4. Amount of HUD Assistance Requested/Received \$240,000.00
5. State the name and location (street address, City and State) of the project or activity: City of Wichita Housing Authority, 332 N. Riverview, Wichita, Kansas 67203	

## Part I Threshold Determinations

1. Are you applying for assistance for a specific project or activity? These terms do not include formula grants, such as public housing operating subsidy or CDBG block grants. (For further information see 24 CFR Sec. 4.3). <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	2. Have you received or do you expect to receive assistance within the jurisdiction of the Department (HUD), involving the project or activity in this application, in excess of \$200,000 during this fiscal year (Oct. 1 - Sep. 30)? For further information, see 24 CFR Sec. 4.9 <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No.
--	---

If you answered “No” to either question 1 or 2, **Stop!** You do not need to complete the remainder of this form.

**However,** you must sign the certification at the end of the report.

## Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan, subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds
n/a			

(Note: Use Additional pages if necessary.)

## Part III Interested Parties. You must disclose:

- All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
- any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds \$50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity (\$ and %)

(Note: Use Additional pages if necessary.)

## Certification

**Warning:** If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed \$10,000 for each violation.

I certify that this information is true and complete.

Signature:  Carlos Mayans, Mayor and Chairman City of Wichita Housing Authority	Date: (mm/dd/yyyy) 
--	--

X

**Public reporting burden** for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

**Privacy Act Statement.** Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is optional. The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §4.38.

**Note:** This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

## Instructions

### Overview.

**A. Coverage.** You must complete this report if:

- (1) You are applying for assistance from HUD for a specific project or activity **and** you have received, or expect to receive, assistance from HUD in excess of \$200,000 during the during the fiscal year;
- (2) You are updating a prior report as discussed below; or
- (3) You are submitting an application for assistance to an entity other than HUD, a State or local government if the application is required by statute or regulation to be submitted to HUD for approval or for any other purpose.

**B. Update reports (filed by "Recipients" of HUD Assistance):**

**General.** All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

### Line-by-Line Instructions.

#### Applicant/Recipient Information.

All applicants for HUD competitive assistance, must complete the information required in blocks 1-5 of form HUD-2880:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered.
2. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.
3. Applicants enter the HUD program name under which the assistance is being requested.
4. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. **NOTE:** In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.
5. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

#### Part I. Threshold Determinations - Applicants Only

Part I contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

If the answer to **either** questions 1 or 2 is No, the applicant need not complete Parts II and III of the report, but must sign the certification at the end of the form.

#### Part II. Other Government Assistance and Expected Sources and Uses of Funds.

**A. Other Government Assistance.** This Part is to be completed by both applicants and recipients for assistance and recipients filing update reports. Applicants and recipients must report any other government assistance involved in the project or activity for which assistance is sought. Applicants and recipients must report any other government assistance involved in the project or activity. Other government assistance is defined in note 4 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available.
2. State the type of other government assistance (e.g., loan, grant, loan insurance).
3. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).
4. Uses of funds. Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

**B. Non-Government Assistance.** Note that the applicant and recipient disclosure report must specify all expected sources and uses of funds - both from HUD **and any other source** - that have been or are to be, made available for the project or activity. Non-government sources of

funds typically include (but are not limited to) foundations and private contributors.

### **Part III. Interested Parties.**

This Part is to be completed by both applicants and recipients filing update reports. Applicants must provide information on:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds \$50,000 or 10 percent of the assistance (whichever is lower).

**Note:** A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses. If the person is an entity, the listing must include the full name and address of the entity as well as the CEO. Please list all names alphabetically.
2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.
3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).
4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

**Note** that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

#### **Notes:**

1. All citations are to 24 CFR Part 4, which was published in the Federal Register. [April 1, 1996, at 63 Fed. Reg. 14448.]
2. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Fed. Acquisition Regulation (FAR) (48 CFR Chapter 1).
3. See 24 CFR §4.9 for detailed guidance on how the threshold is calculated.
4. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
5. For the purpose of this form and 24 CFR Part 4, "person" means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

**Rating Factor 1:**  
**Capacity of the Applicant and Relevant Organizational Staff**

**1. Proposed Program Staffing:**

**a. Staff Experience:**

**Project Coordinator Experience:**

The Project Coordinator, Nancy Mehl, has been the part-time coordinator for all 6 years of the program and has 4 staff years experience as the ROSS - RSDM Coordinator. Prior to that she was a program manager for the Salvation Army. She has consistently met the expectations and job requirements as outlined in the Program Manager Job Description attached. Ms. Mehl has met with service providers, the Contract Administrator (CA) and the Wichita Housing Authority (WHA) weekly throughout the course of the 2003 ROSS - RSDM Program and works well with each of the partners. She manages the workweek of the Senior Companion volunteers and successfully follows the guidelines and rules of the HUD ROSS - Elderly/Disabled grant. Nancy conceived and implemented the WiseUp with WHISCAT monthly educational meetings which helps inform residents of services and issues they need to know about to remain independent. Nancy developed and maintains a vibrant volunteer group of over 15 members called the Wichita Homebound Outreach (WHO) who provide healthy nourishment, social contact, activities and other assistance to participants of the ROSS - Elderly/Disabled program. These volunteers enhance the feeling of connectedness to the community and help relieve isolation and promote independence.

**Contract Administration – Project Manager Experience:**

The Project Manager for the ROSS - Elderly/Disabled program, Cathy Landwehr has been the manager for the previous 6 years of the grant. She has 2.25 staff years of experience in managing the program. She has a Master's Degree in Gerontology and provides the aging expertise required by the Housing Authority to operate the program successfully. Ms. Landwehr consults with the Program Manager as needed and offers advice and direction on month-to-month operations. Ms. Landwehr manages the contracts and provides the link between the City of Wichita Housing Authority and Sedgwick County Department on Aging and all the services it can offer.

**Contract Administration – Fiscal Manager Experience:**

The Fiscal Manager for the ROSS - Elderly/Disabled program, Ray Vail has been the financial expert for the for the previous 6 years of the ROSS - Elderly/Disabled grant. He has .9 staff years of experience and time allocated to the program. He pays invoices, provides invoices, provides accounting duties for the grant, provides and monitors monthly expenditures and provides reports as required.

**Contract Administration – Executive Director Experience:**

The Executive Director for the Contract Administrators is Annette Graham and she has been the Executive Director for the previous 6 years of the ROSS - Elderly/Disabled grant. She has .2 staff years of experience and time allocated to the fiscal and program management of ROSS - Elderly/Disabled Program.

**Wichita Housing Authority – Property Management Experience:**

The Property Management Supervisor (Director of Public Housing) for the Wichita Housing Authority, Tom Byler, has been the Property Manager Supervisor for the WHA for the 6 years of the ROSS/RSDM Program. He has 1 staff years experience and time allocated to the administration of the ROSS Grants. He manages a variety of grants for the Housing Authority. He insures the payment of invoices from the CA by the City Finance Department. He hosts monthly WHISCAT Team Meetings and provides leadership and direction to the partners in all aspects of the grant.

**Wichita Housing Authority – Accountant Experience:**

The Accountant for the Wichita Housing Authority, Addison DeAllie, has completed the necessary accounting and E-LOC's draw downs for the 6 years of the ROSS/RSDM Program. He has .5 staff years experience and time allocated to the administration of the ROSS Grants.

**b. Organizational Capacity:**

WHA Property Management personnel are well equipped to provide an environment where the ROSS - Elderly/Disabled Program can continue its successful partnerships with the Contract Administrator, and it turn, the various service providers and partners. All partnerships are secured by legal contractual agreements that must pass both the City Council for the City of Wichita and the Board of County Commissioners for Sedgwick County. This partnership is over 6 years old and has provided a stable and enriching safety net of services around the participating residents enabling them to live more healthy and independent lives. Because of these stable and legally binding partnerships, there will be no anticipated gap in services and the residents should not notice a change in the grant period.

The Contract Administrator, Sedgwick County Department on Aging (also the Central Plains Area Agency on Aging) is the leader in providing aging services in the area. Over 35 staff support the agency in a variety of capacities including the provision of case management, minor home repair, nursing home pre-assessments, information and referral, transportation, caregiver services and grant management.

Attached, please find résumé's for the program manager, the Contract Administrator staff and the Housing Authority Property Management staff.

**2. Past Performance of Applicant/Contract Administrator.****a. Program Management, past grants and amounts:**

The Wichita Housing Authority had provided the ROSS/RSDM Program services to its elderly and disabled residents for 6 years with the two previous grants totaling \$401,000. The WHA provided drug elimination services for

residents for 3 years with 1999, 2000 and 2001 Public Housing Drug Elimination Grants totaling \$401,000.

As a direct result of the program initiatives provided through the 2000 and 2003 ROSS Grants, the WHA has seen a dramatic reduction in the number of seniors who have been prematurely moved from Public Housing to nursing home facilities. In the recent focus group survey, residents of WHA's senior housing developments reported that the services offered through the previous ROSS grants were invaluable in terms of helping them to continue to live independently. They also reported the supportive services helped them to stay active and doing normal everyday activities that keep their spirits high, thus contributing to their wanting to be involved in the elder care programs. Property managers report that the housekeeping has improved for those residents who are unable to clean their units without supportive services. This has kept pest infestation to a minimal level and improved the appearance and marketability of the properties.

b. Program Implementation:

The Contract Administrator (CA), SCDOA has 20 years of experience providing Case Management, Senior Care Act and Older Americans Act and 10 years experience providing Home and Community Based Services/Frail Elderly Waiver. Those services involve the intake of information, the delivery of a comprehensive functional/risk assessment, the development of a Care Plan, the delivery of that plan involving contractual agreements with service providers and the follow-up and monitoring of those Plans of Care. The CA has successfully managed grant programs such as the CARE Program, the Senior Care Act Program, Service Coordination Program RSVP Program and all the programs under the Older American's Act.

c. Timely expenditure of funds from past grants:

The WHA has continued to obligate and expend all of its public housing operating subsidies and capital funds in a timely manner and fully expects to expend 100% of the 2003 ROSS Grant funds by the end of the program term. The 2003 ROSS Grant is currently 70% expended.

d. Past Leveraging:

The ROSS/RSDM Program has successfully leveraged matching funding from the Mental Health Association's Senior Companion Program. For the first two grant periods, the program has enjoyed three Senior Companions. The cost of providing those companions is split equally between the Senior Companion Program and the ROSS/RSDM Program. Participants are benefited because each of the large facilities has its "own" Senior Companion" and the two smaller facilities share one between them. Senior Companions are the essential ingredient to the ROSS - Elderly/Disabled services.

### **3. Fiscal Management:**

a. Fiscal management of the Housing Authority:

The WHA is an operating division of the City of Wichita. Under this organizational structure the City of Wichita's Department of Finance is responsible for providing all City financial services including data processing, financial accounting and reporting, accounts payable and receivable functions, cash management and investments, budgeting, purchasing, contract administration, and special financial analysis for City Management. The City of Wichita has established and maintains an internal control structure designed to ensure that assets of the City are protected from loss, theft or misuse and to ensure that adequate accounting data is compiled to allow for the preparation of financial statements and reports in conformity with generally accepted accounting principles. As a recipient of Federal and State financial assistance, the City of Wichita ensures that an internal control structure is in place to ensure compliance with applicable laws and regulations related to those programs. This structure is subject to periodic evaluation by management, the internal audit staff of the City and independent auditors.

The City of Wichita is required to undergo an annual single audit in conformity with the provisions of the U. S. Office of Management and Budget Circular A-133. The single audit report includes the schedule of expenditures from federal awards and the auditor's report on the internal control structure and compliance with applicable laws and regulations. The 2004 annual audit disclosed no findings, material weaknesses or material violations of laws and regulations.

The WHA continues to be designated as a Standard Performer by the Public Housing Assessment System and has never been designated as a Troubled Agency. The WHA does not require a Contract Administrator for the ROSS Grant, but believes that the partnership with the Sedgwick County Department on Aging is highly beneficial to the WHA and ROSS Grant's success.

b. The Contract Administrator has successfully managed the program for 6 years.

**ROSS/RSDM**  
**WICHITA HOUSING INITIATIVE FOR SERVICE COORDINATION AND**  
**TRANSPORTATION (WHISCAT)**  
**PROGRAM COORDINATOR JOB DESCRIPTION**

**Wichita Housing Authority and Sedgwick County Department on Aging**  
**May 20, 2006**

Title: **WHISCAT Coordinator**  
Status: **Contracted/Part-Time**



Reports to: **Sedgwick County Dept on Aging, Contract Administrator (CA)**  
Program Supervisor: **Cathy Landwehr, CARE Coordinator**  
Funding: **Resident Service Delivery Model (RSDM) – HUD**  
Office: **Service Coordination Offices in Greenway and McLean**

**Position Summary:** Under the supervision of the Contract Administrator, the WHISCAT Coordinator is responsible for effective overall coordination of a service program for elderly and disabled residents residing in both project based and tenant based housing of the Wichita Housing Authority. The RSDM program is designed to provide non-duplicated health related services to elderly and disabled residents to enhance quality of life and promote independent living.

**Job Description:**

- Develops forms and other materials to determine need, develop a service plan, initiate services and monitor the plan.
- Uses an intake form to screen potential customers and determine customer need.
- Determines what programs are most appropriate for the resident.
- Establishes a plan of care for the resident, then follows through with establishing services with other RSDM and local providers.
- Routinely monitors all customers.
- Markets services and events generated from or related to the RSDM program.
- Coordinates and schedules group transportation opportunities.
- Maintains records and files pertaining to customers and programs in which customers are enrolled.
- Maintains files of resources for customers.
- Prepares statistical reports and financial reports as required.
- Assists with program evaluation and customer satisfaction surveys.
- Assists the Program Manager in program development and grant development.
- Performs work as deemed necessary or as required.
- Supervises and directs Senior Companions as spelled out by the contractual agreement.

**Position Requirements:**

- **Experience:** At least two years experience in dealing with the care and needs of senior citizens or disabled residents is required. Experience with grant-funded programs is preferred.
- **Education:** High school diploma or GED is required. A Bachelor's Degree in Gerontology, Social Work or related field is preferred.
- **Skills:** Thorough knowledge of basic office practices and clerical skills are required. Knowledge of personal computers is required. Proficiency in operating a calculator, typewriter, and other standard office equipment is preferred. Must have good interpersonal, oral and written communication skills. Must have a valid Kansas driver's license.
- **Decision-Making:** Decision making opportunities include the determination to appropriate service that best meets the needs of the customer.
- **Accountability:** The WHISCAT Coordinator is responsible for the management of Federal funds and local match, under the overall supervision of the CA.
- **Supervision:** Program supervision and monitoring is provided. The WHISCAT Coordinator is responsible for scheduling their own time, recording time and otherwise organizing how they will fulfill the responsibilities of the position.
- **Personal Relations:** Continual contact with other governmental agencies, volunteer organizations, service agencies and the general public.
- **Working Conditions:** Possible adverse working conditions exist in this position, including weather conditions in travel.
- **Physical Requirements:** Light work in that the worker exerts up to ten pounds of force occasionally, to lift, pull, push, or grasp objects. Must have the ability to express or exchange ideas by means of communications; conveying detailed or important instructions to the general public. The ability to operate a motor vehicle.

## **Rating Factor 2: Need/Extent of the Problem**

### **Documentation and Description of Level of Need**

The City of Wichita Housing Authority (WHA) and the Sedgwick County Department on Aging (SCDOA) non-2006 ROSS Elderly/Disabled plan grant supported Contract Administrator, have combined resources to outline the continued need for funding in the proposed program. The following sources of information were gathered, each providing a different aspect of the extent of need.

#### **1. Survey of Residents**

A survey was conducted for the 2006 ROSS Elderly/Disabled plan and was administered to residents who utilize the services provided in the 2003 ROSS grant in the four participating Wichita Housing Authority (WHA) locations. The survey covered resident satisfaction of the programs currently offered by the ROSS program called the Wichita Housing Initiative for Service Coordination and Transportation (WHISCAT) and gave residents the opportunity to anonymously comment on changes they would like to see implemented and to write down suggestions on new programming.

In addition to the survey, a focus group was offered to the residents in March of 2006 at Greenway Manor with transportation provided from the other three sites. A total of 24 residents participated. A summery report of the focus group is included in Appendix A. All residents who had ever participated in any of the WHISCAT services were invited. A script was utilized and each participant was encouraged to freely give their opinions regarding the current services and program procedures. The focus questions are included in Appendix B.

#### **Transportation**

Survey results regarding transportation were positive regarding the benefits of getting out of the house, companionship and being more involved. Others said: “it helps me manage my mental illness”; “they pick you up at the door. I can’t walk without a walker”; and “the price of the ride saves me money on my car.” Suggestions for change were few, but included wanting more library trips and trips to low-price shopping destinations. One person wrote of trips being too repetitious but concluded that she thought of the program as “growing to our needs.”

#### **Healthy Living Program**

Survey results regarding the healthy living program ranged from “it takes care of things that are hard for me to do” to “this has helped me to remain independent” to “the housekeeper used too much bleach.”

#### **Wellness Companion**

Residents wrote that senior Companions were “willing to be helpful in any way for things that come up”; “helps so much with trips”; “she knows when to be stern and when to just let thing get settled by themselves, She Is Family!”

### **Wise Up With WHISCAT**

Some complaints of the WiseUp meetings included “hard for me to sit very long” and “the meetings are not always relevant to me. Other statements were positive.

## **2. Local and Statewide General Statistical Information and Resource Documentation**

Statistical information was researched pertaining to the Sedgwick County population with similar age, disability and financial profiles to the resident population.

From *Identifying and Resolving Needs of persons 60 and Older Living Independently in Three Kansas Communities: A Delphi Study 2001* published by the Cramer Reed Center for Successful Aging and the Research Center at Emporia State University, professionals identified the most critical areas of need for Seniors in Sedgwick County. Prescription drug costs were a top concern, income related issues came in second, a need for information came in third social isolation came in 4<sup>th</sup>, the need for in-home services came in 5<sup>th</sup> and transportation came in 6<sup>th</sup> in priority of need. The WHA ROSS – Elderly/Disabled proposes to continue the successful services of the first two ROSS/RSDM grants that addresses the above identified needs as follows.

Prescription drug costs are a major concern for seniors and persons with disabilities. Senior Companions, provider staff and the program coordinator all help identify residents in need and can help refer them to appropriate programs to meet their needs. WHISCAT has also provided transportation to special informational meetings and seminars that inform residents about current drug programs and opportunities. The low co-pay cost to the customer helps meet the concerns of residents who live on a fixed income. In addition, the coordinator schedules trips to grocery stores and discount stores earlier in the month to help manage limited funds. Socialization needs of the residents are met and have exceeded management’s expectations in engaging residents who had previously keep to themselves or left their apartments only for medical appointments. Senior Companions visit shut-ins, provide a kind ear and serve as confidants; accompany timid or frail residents to stores and events and provide the eyes and ears to the coordinator. The coordinator helps refer residents to services the program does not provide and publicizes the Healthy Living service widely. ROSS Grant services are at near capacity. The transportation service is targeted to community building, relieving isolation and meeting the nutritional and healthy living shopping needs of residents.

From the 2005 Older American Act Satisfaction Survey for Central Plains Area Agency on Aging which was administered to 1,698 OAA consumers in the tri-county

area, the following top three needs were identified. Number one is the cost of medicine, number two is the cost of food and number three is health issues and physical fitness. The 2006 ROSS Elderly/Disabled plan will address the need to know about programs to help with high prescription drug costs through referrals from the Program Coordinator, Senior Companions and through health and education programs in the WiseUp With WHISCAT (WWW) series. Health issues will be addressed in transportation to health fairs, the WWW health and education series and through the educational opportunities in the Healthy Living Program. Physical Fitness will be addressed by the transportation program to water aerobic classes, participation in trips involving walking in parts or at the zoo and participating in the healthy living duties in the home.

In March of 2003, a needs survey titled *Your Opinion Can Make a Difference Survey for Seniors 55 and Over* was published in the Active Aging Newspaper in collaboration with the Central Plains Area Agency on Aging and sent to seniors in a three county area including Sedgwick County. The results of the survey indicate that local seniors are most concerned with the high cost of medicine, the high cost of food, home up-keep/yard work/cleaning, availability/cost of in-home care and the availability of reliable transportation. The 2006 ROSS - Elderly/Disabled plan addresses all these concerns with low/no cost services health promotion services and access to information and referral services from the program director and the wellness companion service volunteers about financial help, access to unduplicated healthy living services, and reliable transportation.

### **3. WHA Socioeconomic Profile**

The WHA has an average of 30 customers currently utilizing the unduplicated WHISCAT homemaker service. If these individuals qualify under the new guidelines the 2006 ROSS Elderly/Disabled plan will serve them under the new Healthy Living program with an emphasis on skill building, environmental fall prevention, clutter control and group training opportunities to meet the healthy environmental needs of residents. Healthy Living customers will be referred to the service because their mental or physical illness requires them to be coached or assisted in the activities and there are either no other services available or they do not qualify for other services. The Contract Administrator provides homemaker services to WHA residents who qualify for the services. Currently there are between 16 to 20 residents receiving attendant or homemaker services based on their functional need under the Frail and Elderly Waiver, the Older American's Act and the Senior Care Act. The focus group participants, not currently utilizing the program services showed a satisfaction in knowing that if they needed it in the future, the service would be available for them.

There are 75 persons utilizing the WHISCAT transportation service on a regular or occasional basis in a year. Residents in wheelchairs, with mental health problems, those without vehicles and those needing help with shopping will be the most frequent customers for the 2006 ROSS - Elderly/Disabled plan. The focus group participants who used the transportation service indicated that they had no other transportation, transportation was too expensive or that their families and friends were

not available to transport them. The transportation program helped them to remain independent and active.

In 2005, 242 WHA residents have received some wellness companion service provided by the Senior Companion volunteers under the current ROSS Grant. Residents utilize the companions as escorts and helpers on shopping trips too, as confidants and friends and seek them out when they feel lonely. Wellness companions in the 2006 ROSS - Elderly/Disabled plan will help residents maintain their independence when they encourage them to participate, and when they provide information when they need to know how to access a service, make a healthy food choice or interpret a piece of mail.

#### **4. Local Training Program Information**

Information on the type and number of social service program currently available to residents either through the PHA or other local or state organizations:

##### **Sedgwick County Department on Aging (SCDOA)/Homemaker**

Eligible recipients:

- 60 and older Senior Care Act (SCA), Co-pay minimum 0% to 100% for monthly income from \$798 to \$1,899 and above and a Level of Care score of 26.
- 65 and older Home and Community Based Services (HCBS), assets less than \$2,000; monthly income less than \$730, receiving Medicaid, meets Level of Care screening.

Extent of needs met:

- SCA -- Frequently fills up and waiting lists need to be developed. Currently a waiting list of 30 customers.
- Home and Community Based Service, Frail/Elderly Waiver program. Waiting list for services and Level of Care screening becoming more restrictive allowing only the most frail and at-risk access. No waiting list at this time.

##### **Independent Living Resource Center**

Eligible recipients:

- Disabled adults age 16 to 65.
- Currently receiving either SSI or SSDI
- Level of Care score of 26 or greater

Extent of needs met:

- Waiting list since 2004.
- Many disabled at the WHA are not eligible for the PD Waiver because they don't meet the Level of Care criteria of 26.
- There are currently no programs for errands, friendly visits, meals or light housekeeping for the younger disabled population.
- Current transportation options for work or social are not funded.

### **Sedgwick County Transportation Mill Levy Physical Disability (MLPD)**

Eligible recipients:

- Physically disabled – limited per program guidelines.
- Physically disabled on PD waiver – limited to and social/recreational.

Extent of needs met:

- No funding for elderly (60+) -- social/recreational and work trips.
- No funding for mentally retarded/developmentally disabled -- all type trips.
- No funding for physically disabled -- work trips.
- No funding available for non-medical trips.

### **Senior Companion Program (SCP)**

Eligible recipients:

- Homebound adults at risk for nursing home placement.
- Recipients needing friendly visits, respite care, light housekeeping, meal preparation, medication reminders, help shopping or recreation.

Extent of needs met:

- SCP maintains a waiting list.
- Amount of Federal and local funds are limited and are never enough to meet the need.
- Some residents have received SCP services prior to the ROSS WHISCAT program but not on a consistent basis, and the sites are not volunteer stations.

## **5. The City of Wichita Consolidated Plan**

The current and the proposed 2006 ROSS - Elderly/Disabled plan program address the need for senior residents and persons with disabilities in the Wichita Housing Authority. The program provides services such as the Healthy Home program that will address the issues of fall prevention, sanitation, fire hazard and food safety that otherwise would be unavailable to low-income residents. The ROSS transportation program fills gaps in the current transportation program by offering non-medical related rides and trips for individuals who are isolated, unable to travel without an escort or unable to shop without assistance or guidance. These programs and the Senior Companion friendly visiting service greatly improve the livability of WHA residents in the participating properties.

Both the Wichita Housing Authority and the Sedgwick County Department on Aging staff have reviewed the City of Wichita Consolidated Plan (see the following chart) in the development of both the current program and the proposed new program. The consolidated Plan does consider elderly renters to be in the high and medium priority categories in the lower income ranges.

Table 14 Priority Housing Needs of Households Exhibit (2A)					
PRIORITY HOUSING NEEDS			Priority Need Level (High, Medium, Low)	Estimated Units	Estimated Dollars to Address*
Renter	Small Related	0-30%	H	2,920	14,600,000
		31-50%	M	1,825	9,125,500
		51-80%	L	1,079	3,237,900
	Large Related	0-30%	H	823	4,116,400
		31-50%	M	651	1,953,600
		51-80%	L	628	1,886,970
	Elderly	0-30%	H	1,323	6,618,350
		31-50%	M	967	4,834,550
		51-80%	L	539	1,617,900
	All Other	0-30%	H	3,783	18,916,050
		31-50%	M	1,976	9,883,500
		51-80%	M	830	2,489,160
Owner		0-30%	M	4,706	32,420,000
		31-50%	H	6,531	29,454,800
		51-80%	M	13,792	37,376,300

### Rating Factor 3: Soundness of Approach

#### Quality of Work Plan – Specific Services and/or Activities

The SCDOA as the Contract Administrator for the WHA ROSS – Elderly/Disabled Program proposes to implement the following services for elderly and persons with disabilities.

#### 1. Transportation Plan

##### A. Objectives

The transportation objectives are to provide unduplicated rides to older persons and persons with disabilities who have no other resource for non-medical transportation. The current ROSS – Elderly/Disabled Program is successfully transporting WHA residents for a minimal co-pay of \$1.00 per ride. The plan is to continue charging a minimal co-pay of \$2.00 per trip because the other available transportation opportunities also charge and that savings will make grant resources go farther to serve more people.



- B. **Beginning and Completion Dates**  
The current ROSS – Elderly/Disabled Program known as the Wichita Housing Initiative for Service Coordination and Transportation (WHISCAT) is fully operational and is at budget capacity. The WHA plans to continue this program with no break in service on May 1, 2007 given prior notice of award. The Program Coordinator currently schedules trips, events and trainings one or more months in advance and the budget will be monitored monthly and quarterly to insure that funds will not run out before the end of the grant period or April 30, 2010. The Wichita Transportation Authority (WTA) and the Sedgwick County Transportation Brokerage are fully prepared to provide the service and both are fully operational with staff, vehicles and a process for record keeping and billing.
- C. **Types of Service**  
Accessible individual and congregate rides will be authorized for the residents who need transportation and have no other affordable option to go shopping for goods and groceries, travel to exercise and health classes, cultural events and community outings. It is anticipated that this service could be used to transport a group of residents to congregate events and to the housing authority location hosting the monthly health education seminar.
- D. **Staff Time**  
Staff time will consist of advertising the service to residents on a continual basis until the allocated funding for the year is depleted. Staff will make every effort to involve residents in the decisions of when and where they want to go by taking suggestions at the monthly sign-up times; by periodically providing written opportunities for suggestions, and advertising phone numbers to make suggestions. Staff will also help fill out or otherwise accept applications for service and authorize trips on an as-needed basis. Staff will assign Senior Companion volunteers to each trip to promote the health and safety of the residents who need assistance. Staff will monitor satisfaction on a yearly basis. The CA is responsible for monitoring the budget on a monthly basis and for a quarterly review by the Executive Director. Please see supporting resumes in this tab.
- E. **Dollar Amounts Over the 36 Month Time Period**  
Rides cost \$17.00 per trip for as many residents as there are seats in the van for the transportation Brokerage. Trips involving large numbers of residents with multiple stops will be provided by the Wichita Transit Authority for \$40.00 per hour with a three hour limit. Total budget for the 2006 ROSS – Elderly/Disabled Program will be \$34,000 or \$944.00 per month. An average of 13 trips per month will be scheduled.

## **2. Wellness Companion/ Transportation Escort**

### **A. Objectives**

The objective is to provide an unduplicated opportunity for companionship and transportation to seniors and persons with disabilities who because of their isolation and situation are not utilizing their full potential for growth and well-being. In the 2006 ROSS - Elderly/Disabled plan, WHA will continue to sponsor one-half the cost of three Senior Companion Program (SCP) volunteers at the facilities to be available to check on sick or homebound residents, encourage resident participation for congregate events, escort residents to shopping trips, cultural trips and educational seminars, and assist residents with information on how to access services, fill out forms or read letters. Senior Companions are the eyes and ears for the Program Coordinator and will be supervised by that position.

### **B. Beginning and Completion Dates**

The ROSS – Elderly/Disabled Wellness Companion Program is fully operational in the four facilities at this time and with continued funding, there should be no break in the service. When a senior companion leaves a position with WHISCAT, the SCP program manager and the ROSS - Elderly/Disabled Program coordinator collaborate and identify a replacement, train him/her and quickly fill the gap in service.

### **C. Types of Service**

Senior Companions can be assigned to residents needing medication monitoring, errands, correspondence assistance, companionship, and a companion for walking or other exercise. Senior Companions help with sign-up, ride with residents on trips and assist with shopping if needed. Senior Companions visit homebound residents, and are available for walk-in visits and residents who need information. The Senior Companions are the glue that binds the many activities of the ROSS - Elderly/Disabled Program together and they have become an essential leg of the services offered.

### **D. Staff Time**

Program Coordination staff will be directly involved with scheduling, monitoring and supervising the companions on a daily basis. The ROSS – Elderly/Disabled Program is currently a volunteer station for the Senior Companion Program so time sheets and other management obligations will be the responsibility of the Program Coordinator and the Program Manager of the CA. Fiscal personnel will pay the Senior Companion Program for services, document the match and report to the WHA. Please see supporting resumes in this tab.

- E. Dollar Amounts Over the 36 Month Time Period  
Each companion costs the SCP \$6,000 to support. It is proposed to split the cost of three companions over a three-year period. Three companions at \$3000 for three years will equal \$27,000 cost for the 2006 ROSS – Elderly/Disabled Program and \$27,000 for the Senior Companion Program.

### **3. Healthy Living Service Plan**

- A. Objectives  
The objective is to provide an unduplicated, low cost opportunity for homemaker assistance, education and light chore services to frail seniors and younger disabled persons who because of their health or physical or mental disability, are in jeopardy of eviction or nursing home placement. Our service provider will work closely with the Program Coordinator to serve program participants needing reminders or limited assistance with healthy living practices inside the home such fall safety practices, clutter control and organizational practices, pest control practices, reminders and best practices for stored food or leftover food and critical chore service for those who do not qualify for another service or are on a waiting list for services. Congregate educational opportunities will be provided through this program to encourage long-term success.
- B. Beginning and Completion Dates  
The previous support staff received high praise from the residents participating in the focus group discussion done in preparation for this funding cycle. WHA plans to provide this valuable service to our residents beginning May 1, 2007 if funded. The CA and the WHA will monitor the budget on a monthly and a quarterly basis. The current program is at capacity at this point and will be maintained to fully expend the funds by April 30, 2010.
- C. Types of Service  
To meet the unduplicated health needs of frail seniors and persons with physical and mental disabilities who cannot meet their own homemaking needs without assistance, education, cueing or reminding. Healthy Living services will focus on sanitary practices in the bathroom and kitchen, fall prevention (environmental) standards, clutter management, safe food storage and group training opportunities. Light chore is an infrequent service to start a customer out on a regular healthy living service schedule, to meet an occasional need or to address an eviction notice problem. Heavy chore is reserved for truly intense living condition challenges and will be done in teams.

D. Staff Time

Program Coordination staff will be directly involved with taking referrals for this service, interviewing the resident, setting up the service and monitoring the service. The Contract Administrator, is not funded by the ROSS – Elderly/Disabled grant. The CA will pay the provider per hour served. Please see supporting resumes in this tab.

E. Dollar Amounts Over the 36 Month Time Period

\$23,333 per year will be allocated for this service for a total of \$70,000 for the three-year period. Co-pay amounts will vary from 0% to 100% depending on the person's income with most co-pay below 20% of the cost per hour. There are currently 30 customers being served and the program is at capacity.

**4. Wichita Homebound Outreach (WHO)**

A. Objectives

The objective is to provide an opportunity for social activity, which is interesting to both seniors and persons with disabilities to increase their opportunity for social interaction, build community and enhance their quality of life.

B. Beginning and Completion Dates

The WHO is currently offering this service to the residents of WHA project based housing in response to residents increased interest in community activities and social interaction. The 2006 Elderly/Disabled Program will continue collaborating with the WHO volunteers and plan to hold monthly activities beginning in May 2007 through April 2010.

C. Types of Service

The WHO volunteers will sponsor events designed to provide socialization opportunities for the residents of the WHA congregate housing. The events will consist of dinners, ice-cream socials, cookouts, monthly birthday parties, holiday parties, bingo, sing-a-longs, as well as other similar social events. Low income residents sometimes receive supplemental fruit baskets from the WHO Program to help meet their concerns for having enough to eat especially at the end of the month. The WHO Program has also provided necessary medical equipment to residents who could not receive help through any other program.

D. Staff Time

Staff time will be required of the program coordinator who helps plan the events and schedules the times and transportation if needed. Please see supporting resumes in this tab.

- E. Dollar Amounts Over the 36 Month Time Period  
Volunteer time for the residents is only estimated to be a minimum of \$5.15 per hour for 32 hours per month for 36 months for a total of \$1,978 per year. In addition, WHO donates goods purchased by the group for an average of \$50.00 per month or \$600.00 per year. The three-year value of the program to the ROSS – Elderly/Disabled Program is \$7,733.00.
- 5. “Wise Up With WHISCAT” Educational Series (WWWES)**
- A. Objectives  
To provide 10 to 12 opportunities per year for three years for residents to participate in healthy learning opportunities chosen by them, arranged by the Program Coordinator in collaboration with the Service Coordinator and presented by professionals.
  - B. Beginning and Completion Dates  
The idea for the series was generated by the focus group input of current participants in the ROSS – Elderly/Disabled Program. A schedule beginning in May of 2007 will be implemented and the series will continue through April of 2010.
  - C. Types of Service  
The service will consist of presentations on healthy food choices, healthy cooking demonstrations, exercise, disease management, legal issues, insurance issues, services, advocacy, current issues and other topics of educational interest as the residents identify them.
  - D. Staff Time  
Staff time will be necessary and will involve scheduling the speakers, the dates and times, scheduling transportation and collecting the information on attendance in a report form. Please see supporting resumes in this tab.
  - E. Dollar Amounts Over the 36 Month Time Period  
There will be no charge for the series to the participants, but the co-pay for transportation may be necessary for some trips. The speaker’s time will be conservatively figured at three hours for preparation and presentation. The allowable minimum sum of \$5.15 is used to calculate the value of \$185. The estimated match for the three-year period is \$556.00.

#### **Rating Factor 4: Leveraging Resources**

The City of Wichita Housing Authority (WHA) leveraged the maximum amount of resources for the program by sub granting the Contract Administrator (CA) function to the Sedgwick County Department on Aging (SCDOA). No ROSS – Elderly/Disabled grant funds will be used for this service. This partnership will enable WHA to leverage the expertise of the largest Area Agency on Aging in Kansas. The SCDOA currently collaborates with the WHA to bring many programs and services to the residents of Greenway Manor, McLean Manor, Rosa Gragg and Bernice Hutcherson.

The success of the collaboration with the CA over the past 6 years has generated interest in other partnerships such as the Wichita Homebound Outreach volunteer group, the Senior Companion Program, the Sedgwick County Transportation Brokerage and a variety of professions who will provide monthly health and education series based on the suggestions of residents. Residents have benefited from these partnerships and have shown their satisfaction with the services through their increased participation in activities, reduced isolation, reduced eviction, reduced complaints to management and increased referrals to other service. Residents are better equipped to live independently with access to more services, more community spirit and a safety net of professionals to help when needed.

The SCDOA as Contract Administrator (CA) has extensive experience and history with providers of services for seniors. The SCDOA partners with over 30 different agencies to insure services are provided to seniors efficiently and effectively. Some of those partnerships have been provided to the residents of the Housing Authority for two grant periods and because of their success, will be extended to the 2006 ROSS – Elderly/Disabled program if funded.

- The CA has negotiated with the Senior Companion Program, to generate three senior companion positions. The partnership provides for half of the funding to come from the Senior Companion Program, and half of the funding to come from the 2006 ROSS – Elderly/Disabled program. Senior companions are considered paid volunteers and they get a stipend that they do not have to count as wages for many programs. They remind residents of activities, accompany residents on trips, encourage healthy living practices, and visit the sick. They work 20 hours a week and are dependable and well liked by the residents.

- The Wichita Homebound Outreach has partnered with the current ROSS – Elderly/Disabled program to provide the social piece of the program that is so important to building community spirit and promoting a sense of family to the residents. These dedicated volunteers are responsible for monthly birthday parties, dinners, barbeques, bingo with prizes, holiday parties and food for special events.

- The SCDOA provides Case Management to individuals on the Home and Community Based Services/Frail Elderly Waiver, Older American's Act and Senior

Care Act. These services enhance the functioning and the well-being of the resident customers and enable them to remain as independent as they are able. The program coordinator makes referrals to these programs when necessary and takes referrals from them when budget shortfalls require case managers to reduce service hours. The Transportation Brokerage provides additional rides to residents of the WHA for medical appointments and social service appointments.

-The Wichita Housing Authority will be donating access to phone, equipment, and supplies for the Program Coordinator.

-Current ROSS – Elderly/Disabled participants have participated in requesting a monthly health and education series that is organized and scheduled by staff. Some of the subject matter will be resident request. Many experts and professionals are willing to make presentations to groups free of charge as a community service. (This match amount is not firm and will not be included in the match percentage.)

**Match requirements:**

25% or \$60,000

**Community:**

Mental Health Association, Senior Companion Program

**\$54,000** -- 3 year total cost - 3 senior companions at \$3,000 each per year.  
\$54,000 x .50 (RSDM share). Match @ \$9,000 per year, \$27,000 total.

Wichita Homebound Outreach

**\$7,733** -- 3 year cost. Match of \$5.15 per hour x 32 hrs x 12 mo. x 3 yrs. +  
\$1,800 in goods.

**Governmental Units/Agencies:**

Sedgwick County Department on Aging

**\$73,008** -- 3 year cost - At least 12 residents in WHA units receive in-home services and case management through Home and Community Based Services/Frail Elderly waiver, Older American's Act or Senior Care Act programs, for an average of 3 hours per week for 3 years (156 weeks) at a average of \$13 per hour.

Sedgwick County Transportation Brokerage Program

**\$63,648** -- 3 year cost – At least 6 WHA customers receive average at least 4 one-way rides weekly for 3 years (156 weeks) at \$17.00 per trip.

**Applicant:**

City of Wichita Housing Authority

**\$1,200** -- 3 year cost - furniture and use of equipment for program coordinator and paper goods.

Total match reported: \$199,589. or (> 83%)



## **Agenda Item No. 48**

City of Wichita  
City Council Meeting  
June 20, 2006

Agenda Report No. 06-0679

TO: Wichita Airport Authority

SUBJECT: Terminal Area Redevelopment Program  
Supplemental Agreement 1

INITIATED BY: Airport Department

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the supplemental agreement.

Background: On June 7, 2005 the Wichita Airport Authority approved a contract with DMJM Aviation for program management of the Terminal Area Redevelopment Program.

Analysis: A supplemental agreement has been prepared to include cost estimating and environmental services.

Financial Considerations: The amount of the supplemental agreement is \$236,600 and funds are identified in the Capital Improvement Program. The inclusion of the supplemental agreement will result in a total contract amount of \$4,789,457 to be funded with Federal Airport Improvement Grant funds, Airport Passenger Facility Charges, and General Obligation Bonds paid for with airport revenue. Funds will be available in the approved budget for the Terminal Area Redevelopment Program.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through the Terminal Area Redevelopment Program.

Legal Considerations: The Law Department has approved the supplemental agreement, and it will be forwarded to the FAA for approval.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the Supplemental Agreement, and authorize necessary signatures.

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